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MICHAEL J. COLITZ, JR.
640 Douglas Avenue
DUNEDIN FL 34698

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
Dirk Laureyssens :
Application No.: 29/313685 : ON PETITION
Filing or 371(c) Date: 02/02/2009 :
Title of Invention: :
TOOTH SHAPED CHEWING GUM :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed March 29, 2010.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed December 14, 2009. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on March 15, 2010. A Notice of Abandonment was mailed March 29, 2010.

The present petition

Applicant files the present petition, issue fee and drawings in response to the Notices; however, no Terminal Disclaimer has been filed.

Applicable Law, Rules and MPEP

A petition to revive an abandoned application on the grounds that the failure to reply was unintentional (37 CFR 1.137(b)) must be accompanied by: (1) the required reply; (2) 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; (3) any terminal disclaimer

required pursuant to 37 CFR 1.137(d) (see above discussion); and (4) the petition fee as set forth in 37 CFR 1.17(m). Applicant lacks item (3).

Analysis and conclusion

A terminal disclaimer and the terminal disclaimer fee are required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995.

Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

/D LW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Terminal Disclaimer Form

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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640 Douglas Avenue
DUNEDIN FL 34698

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Dirk Laureyssens	:	
Application No.: 29/313685	:	ON PETITION
Filing or 371(c) Date: 02/02/2009	:	
Title of Invention:	:	
TOOTH SHAPED CHEWING GUM	:	

This is a decision on the renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 16, 2010.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed December 14, 2009. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on March 15, 2010. A Notice of Abandonment was mailed March 29, 2010.

The renewed 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 and corrected drawings; (2) the petition fee, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on any continuing application. A copy of this decision should be attached to the cover letter.

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

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

/D LW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HARRY I. LEON
924 BOWEN ST NW
ATLANTA GA 30318

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of :
Jongchul :
Application No. 29/313,830 : DECISION
Filed: 13 February, 2009 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 18 January, 2011, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) .

The petition pursuant to 37 C.F.R. §1.137(a) is **DISMISSED**.

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

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

As to Allegation of
Unavoidable Delay

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

Petitioner does not appear to have satisfied—and may be unable to satisfy—the showing requirements (as to unavoidable delay) under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

Petitioner failed to reply timely and properly to the Notice of Allowance/Alowability and Fees Due mailed on 2 September, 2010, with reply due under a non-extendable deadline on or before 2 December, 2010.

The application went abandoned by operation of law after midnight 2 December, 2010.

The Office mailed the Notice of Abandonment on 16 December, 2010.

On 18 January, 2011, Petitioner filed, *inter alia*, a petition with fee and terminal disclaimer and fee, and averred unavoidable delay pursuant to 37 C.F.R. §1.137(a), pointed to a failure to receive the Notice of Allowance/Allowability and Fees Due, however, Petitioner failed to make the showing required for such an averment pursuant to to 37 C.F.R. §1.181—and Petitioner is directed to the guidance in the Commentary at MPEP §711.03(c)(I)(A). Petitioner's showing is not within the constraints of the diligence requirements (with documentary support) envisioned in *Pratt*.[1]

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

Thus, it is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

***

...Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R. §137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See Maldague, *10 USPQ2d at 1478.*

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

> 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

[1] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

> agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, *38 App. D.C. 497, 514-15 (1912)(quoting* Pratt, *1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also* Winkler v. Ladd, *221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963),* aff'd, *143 USPQ 172 (D.C. Cir. 1963);* Ex parte Henrich, *1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."* Smith v. Mossinghoff, *671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."* Haines v. Quigg, *673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:*

(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;

(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or

(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn*, 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed

without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).

An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(a)] was unavoidable" or even make an appropriate statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(b)] was unintentional."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, and any terminal disclaimer required by 37 C.F.R. §1.137(c). Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.

***

Petitioner has failed to satisfy the requirements under the Rule and discussed above.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS

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

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

As to Allegations of Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c and http://www.uspto.gov/web/forms/sb0064.pdf).

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the proper reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARRY I. LEON
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MAILED

MAY 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Jongchul :
Application No. 29/313,830 : DECISION
Filed: 13 February, 2009 :
Attorney Docket No. (None) :

This is a decision on the petition filed on the petition filed on 21 March, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

Petitioner failed to reply timely and properly to the Notice of Allowance/Alowability and Fees Due mailed on 2 September, 2010, with reply due under a non-extendable deadline on or before 2 December, 2010.

The application went abandoned by operation of law after midnight 2 December, 2010.

The Office mailed the Notice of Abandonment on 16 December, 2010.

On 18 January, 2011, Petitioner filed, *inter alia*, a petition with fee and terminal disclaimer and fee, and averred unavoidable delay pursuant to 37 C.F.R. §1.137(a), pointed to a failure to receive the Notice of Allowance/Allowability and Fees Due, however, Petitioner failed to make the showing required for such an averment pursuant to 37 C.F.R. §1.181—and Petitioner is

directed to the guidance in the Commentary at MPEP §711.03(c)(I)(A). Petitioner's showing is not within the constraints of the diligence requirements (with documentary support) envisioned in *Pratt*.[1] Thus, Petitioner failed to make the showing as set forth in the Manual of Patent Examining Procedure (MPEP), and the petition was dismissed on 14 March, 2011.

On 21 March, 2011, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, with a terminal disclaimer and fee, and made the statement of unintentional delay.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[4]))

---

[1] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

As to Allegations of
Unintentional Delay

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

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

CONCLUSION

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

The instant application is released to the Publications Branch to be processed into a patent in due course.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application of
Daniel J. Diciolla
Application No. 29/313,932
Filed: February 19, 2009
For: ROLL HOLDER

DECISION ON PETITION

This is a decision on the petition, filed July 29, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to timely pay the issue fee on or before May 17, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 17, 2010.

Petitioner request withdrawal of the holding of abandonment and states that "The Applicant had filed a Petition to withdraw the application. The Petition to withdraw had been received by the U.S.P.T.O. on March 9, 2010, as evidenced by the postcard, a copy of which is hereto attached as Exhibit A.

The Applicant had awaited the Commissioner's decision, and a notice of abandonment was received. ..."

However, no evidence has been provided to show that the issue fee has been paid. Therefore, the application became abandoned by operation of law on May 18, 2010 for failure to pay the issue fee on or before May 17, 2010. Also, because applicant did not receive a reply to the petition filed March 9, 2010 does not warrant the USPTO to withdraw the holding of abandonment. The petition received March 9, 2010 was treated under 37 CFR 1.314, as was referenced in the petition. Also, the petition filed March 9, 2010 is dismissed.

Petitioner is reminded that the application became abandoned for failure to timely pay the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply **must be the payment of the issue fee or any outstanding balance thereof**. *See* MPEP 711.03(c)(III)(A)(1).

In view of the above, that the issue fee has not been paid and no evidence provided to show such, the petition requesting withdrawal of the holding of abandonment cannot be granted.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee. A terminal disclaimer with fee is also required in a design application as required by 37 CFR 1.137(d).

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

Further correspondence with respect to this matter should be 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
www.uspto.gov

EDWARD P. DUTKIEWICZ, P.A.
EDWARD P. DUTKIEWICZ
P.O. BOX 937
DADE CITY FL 33526

MAILED

NOV 0 8 2010

OFFICE OF PETITIONS

In re Application of :
Daniel J. Diciolla :
Application No. 29/313,932 : DECISION ON PETITION
Filed: February 19, 2009 :
For: ROLL HOLDER :

This is a decision on the petition filed March 9, 2010.

The petition is **DISMISSED**.

The petition is being construed as one under 37 CFR 1.314, to defer issuance because applicant has not made it clear as to what he was asking for. Also, applicant referenced 37 C.F.R. 1.314 in the above petition.

Additionally, the petition is dismissed because the issue fee had not been paid. The issue fee must be paid in an application in which a petition under 37 C.F.R. 1.314 is filed.

Telephone inquiries 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
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EDWARD P. DUTKIEWICZ, P.A.
EDWARD P. DUTKIEWICZ
P.O. BOX 937
DADE CITY FL 33526

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of :
Daniel J. Diciolla :
Application No. 29/313,932 : DECISION ON PETITION
Filed:February 19, 2009 :
For: ROLL HOLDER :

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2010, to revive the above-identified design application.

The petition is **GRANTED.**

The application became abandoned for failure to timely pay the issue fee on or before May 17, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 17, 2010. A Notice of Abandonment was mailed on June 3, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $430.00 issue fee, (2) the petition fee of $810.00, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 23, 2011

TO SPE OF : ART UNIT 2914 - SPE Celia A. Murphy .

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/314,091 Patent No.: D630,549 S

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Should the Foreign Application Priority Data be inserted on the title page of patent as requested by applicant?
See COCIN dated 2-2-2011

Antonio Johnson

_____
Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____ _____ /Celia A. Murphy/ 2914
SPE _____ **Art Unit** _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JUN 09 2011
OFFICE OF PETITIONS

DAVID AND RAYMOND PATENT FIRM
108 N. YNEZ AVE., SUITE 128
MONTEREY PARK CA 91754

In re Application of :
Xiao Ping Cai : ON PETITION
Application No. 29/314,162 :
Filed: March 9, 2009 :
Atty. Docket No.: USD4161A-GXF

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Office Action mailed September 9, 2010 (outstanding Office action), which set a shortened statutory period of reply of two (2) months. No reply was sent, and no extension of time under 37 CF 1.136(a) was obtained. Accordingly, the application became abandoned on November 10, 2010. A Notice of Abandonment was mailed April 12, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of submission of replacement drawings as required by the outstanding Office action, (2) a petition fee of $810 (small entity), (3) a statement of unintentional delay, and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The reply to the outstanding Office action is accepted as having been unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

The application file will be referred to Technology Center Art Unit 2912.

for Ramesh Krishnamurthy

David Bucci
Petitioner Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : D615,129 S
Ser. No. : 29/314,381
Inventor(s) : Joseph Allen
Issued : May 4, 2010

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Emma C. Harty
Bryan Cave LLP
211 N. Broadway, Ste. 3600
St. Louis, Missouri 63102-2750

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY MO 64106-2150

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of
James Russell Homsby
Application No. 29/314,493
Filed: April 7, 2009
Attorney Docket No. 821953-0014B

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 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 of Nonprovisional Application, which was mailed on April 23, 2009. The Notice to File Missing Parts 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 June 24, 2009. A Notice of Abandonment was mailed on January 5, 2010. A petition filed under 37 CFR 1.137(b) January 29, 2010 was dismissed on May 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $65 surcharge and declaration (2) the petition fee of $810, (3) a proper statement of unintentional delay and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

March 30, 2011

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of	:	
Jennifer Lynn Lowery, et al	:	**DECISION ON PETITION**
Application No. 29314614	:	
Filed: 04/14/2009	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **D1478A**	:	***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 4, 2010.

The petition is **GRANTED**.

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 7, 2011

TO SPE OF : ART UNIT 2913

SUBJECT : Request for Certificate of Correction for Appl. No.: 29314645 Patent No.: D615832

CofC mailroom date: Dec. 27, 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.

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

Comments: _____

Caron D Veynar

CARON D. VEYNAR
SUPERVISORY PATENT EXAMINER

ART UNIT 2913

UNITED STATES 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. TRACY CRUMP
P.O. BOX 604
NEW CARLISLE IN 46552

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of :
Gary A. Eck :
Application No. 29/314,669 : DECISION ON PETITION
Filed: April 17, 2009 :
Attorney Docket No. E05.001 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed September 18, 2009, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 19, 2009. A Notice of Abandonment was mailed April 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment (previously submitted April 23, 2010), (2) the petition fee of $810.00 (previously paid April 23, 2010), (3) a proper statement of unintentional delay and (4) a Terminal Disclaimer with the accompany $70.00 fee (previously paid April 23, 2010).

The request for a terminal disclaimer is accepted and has been made of record.

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

This application is being referred to Technology Center AU 2912 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

DAVID ODELL SIMMONS
7637 PARKVIEW CIRCLE
AUSTIN TX 78731

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Application of	:	
Marlin Daniel Ballard	:	
Application No. 29/314,694	:	DECISION ON PETITION
Filed: April 20, 2009	:	
Attorney Docket No. Ballard-13 USDPA	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 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 March 30, 2010. A Notice of Abandonment was mailed August 11, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00, (3) a proper statement of unintentional delay, and (4) a Terminal Disclaimer and fee of $70.00.

The request for a terminal disclaimer is accepted and has been made of record.

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

This application is being referred to Technology Center AU 2914 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Gene R. Woodle
3516 Woodle Drive
Rapid City SD 57702

MAILED
NOV 08 2010
OFFICE OF PETITIONS

In re Application of :
Ryan McFarland :
Application No. 29/314,711 : DECISION ON PETITION
Filed: April 20, 2009 :
Attorney Docket No. RM/D09 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2010, to revive the above-identified design application.

The petition is **GRANTED.**

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed June 3, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 4, 2010. A Notice of Abandonment was mailed on September 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a replacement drawing, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of June 3, 2010 is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

This application is being referred to Office of Data Management for further processing in accordance with this decision on petition.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 27 2010

OFFICE OF PETITIONS

ZIMMERMAN & CRONEN, LLP
1330 BROADWAY
SUITE 710
OAKLAND CA 94612-2506

In re Application of	:	
Ronald CLARK	:	
Application No. 29/314,824	:	DECISION ON PETITION
Filed: April 30, 2009	:	
Attorney Docket No. 4595	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the required issue fee on or before October 27, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 27, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $430 (2) the petition fee of $810; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

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

This application is being referred to the Office of Data Management for further 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
Alexandria, VA 22313-1450
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ZIMMERMAN & CRONEN, LLP
1330 BROADWAY
SUITE 710
OAKLAND CA 94612-2506

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of :
Ronald Clark :
Application No. 29/314,825 : DECISION ON PETITION
Filed: April 30, 2009 :
Attorney Docket No. 4594 :

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**.

This application became abandoned for failure to timely pay the issue fee on or before October 28, 2009, as required by the Notice of Allowance and Fee(s) Due mailed July 28, 2009. Accordingly, the date of abandonment of this application is October 29, 2009. A Notice of Abandonment was mailed November 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $430.00 (previously paid April 9, 2010); (2) the petition fee of $810.00 (previously paid April 9, 2010); (3) a proper statement of unintentional delay; and (3) a Terminal Disclaimer and fee of $70.00 (previously paid April 9, 2010).

The request for a terminal disclaimer is accepted and has been made of record.

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEDMAN & COSTIGAN, P.C.
1230 AVENUE OF THE AMERICAS
7th floor
NEW YORK, NY 10020

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Application of :
Barlas Baylar :
Application No. 29/314,833 : ON PETITION
Filed: May 1, 2009 :
Attorney Docket No.: 163-D-859 :

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

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 submit corrected drawings and pay the issue fee on or before November 4, 2010 in a timely manner in reply to the Notice of Allowability, mailed August 4, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on November 5, 2010. A Notice of Abandonment was mailed on November 29, 2010. On December 13, 2010, the present petition was filed.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) (1) the required reply,[1] 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).

[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.

The petition lacks items (4) above.

Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application and the terminal disclaimer must also apply to any patent granted on a continuing design application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. To be effective, the terminal disclaimer must include the fee of $140 ($70 if small entity) pursuant to 37 CFR 1.20(d) and be signed in accordance with 37 CFR 1.33(b). If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] 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

HEDMAN & COSTIGAN, P.C.
1230 AVENUE OF THE AMERICAS
7th floor
NEW YORK, NY 10020

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Application of :
Barlas Baylar :
Application No. 29/314,833 : ON PETITION
Filed: May 1, 2009 :
Attorney Docket No.: 163-D-859 :

This is a decision in response to the renewed petition, filed March 24, 2011, to revive the above-identified design application under 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for a failure to timely pay the issue fee on or before November 4, 2010, as required by the Notice of Allowance and Fee(s) Due mailed August 4, 2010. A Notice of Abandonment was subsequently mailed on November 29, 2010. On December 13, 2010 a petition under the provisions of 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed February 17, 2011. In response, on March 24, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee of $430, (2) the petition fee of $810, (3) an adequate statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer filed March 24, 2011 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to the Office of Data Management for further processing.

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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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of :
Sky Leighton et al. :
Application No. 29/314,859 : DECISION ON PETITION
Filed: May 4, 2009 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 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 Allowability mailed on April 7, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on July 8, 2010. A Notice of Abandonment was mailed on July 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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.

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.

Accordingly, the corrected drawings are accepted as being unintentionally delayed.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HORST M. KASPER
B FOREST DRIVE
WARREN NJ 07059

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Grzegorz Fojucik et al. :
Application No. 29/314,909 : DECISION ON PETITION
Filed: May 8, 2009 : TO WITHDRAW
Attorney Docket No. FOJ201 : 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 **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 Horst M. Kasper on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

The correspondence address has been changed and is copied below.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Grzegorz Fojucik
ul. Ksiedza Skorupki 82/4
Bydgoszc, Poland 85-156

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
29/314,909	05/08/2009	Grzegorz Fojucik	FOJ201

CONFIRMATION NO. 8679

HORST M. KASPER
B FOREST DRIVE
WARREN, NJ 07059

POWER OF ATTORNEY NOTICE

OC000000046226439

Date Mailed: 02/28/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/11/2011.

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

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

Peter A. Shaddock II
Suite 201
501 Independence Parkway
Chesapeake VA 23320

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Brian Abrams, et al.	:	
Application No. 29/314,934	:	DECISION ON PETITION
Filed: May 11, 2009	:	
Attorney Docket No. 729-295	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed May 28, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five (5) month extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 29, 2009. The Notice of Abandonment was mailed May 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $110 basic filing fee, the $50 search fee and the $70 examination fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The terminal disclaimer has been accepted.

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

This application is being referred to the Office of Patent Application Processing for appropriate action s on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 9, 2011

Bracewell & Giuliani LLP
P.O. Box 61389
Houston TX 77208-1389

Re Application of
CARLOW, RICHARD A., ET AL
Application: **29/314965**
Filed: **05/13/2009**
Attorney Docket No: **092847.000026**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 13, 2009.

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

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification 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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MAILED

MAR 15 2011

OFFICE OF PETITIONS

LAW OFFICE OF SERGEI OREL, LLC
Suite M-21D, Lower Level Mall
7000 J F Kennedy Boulevard East
Guttenberg, NJ 07093

In re Application of Him-Yau Lee :
Application No. 29/314,976 : Decision on Petition
Filing Date: May 14, 2009 :
Attorney Docket No. FHKI 2093 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 14, 2010, 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 14, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 15, 2010. A Notice of Abandonment was mailed on February 1, 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 (1) a reply in the form of payment of the issue fee, (2) the required petition fee of $810, (3) the required statement of unintentional delay, and (4) the required terminal disclaimer. Therefore, the petition is granted and the application is revived.

The Office of Data Management, Office of Patent Publication, 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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TRASKBRITT, P.C./RECKITT BENCKISER
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED
FEB 07 2012
OFFICE OF PETITIONS

In re Patent No. D632,111 :
Issue Date: February 8, 2011 :
Application No. 29/314,991 : DECISION ON PETITION
Filed: May 15, 2009 :
Attorney Docket No. 3289-9503US :

This is a decision on the Request Under 37 CFR 3.81(b) And Request For Certificate Of Correction, filed October 31, 2011, which is being treated as a Petition, to identify the correct assignee's residence. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

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

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

"Reckitt & Colman (Overseas) Limited, **(GB)**"

to:

--Reckitt & Colman (Overseas) Limited, **Slough, Berkshire (GB)**--

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.

U.S. Patent No. D632,111
Application No. 29/314,991
Decision on Petition under 37 CFR §3.81(b)

The requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(h) was submitted. However, the requisite $100.00 processing fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), is required. Therefore, since the petition was accompanied deposit account authorization, the fee has been charged. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form (PTO/SB/44) that was submitted with petition.

However, petitioner requests a correction to be made in Description (Line 1). Therefore, the correction will be handled directly in the Certificate of Correction Branch.

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. D632,111.

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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ALIX YALE & RISTAS, LLP
750 MAIN STREET
SUITE 1400
HARTFORD, CT 06103

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
Hoi Tak Raymond Lam :
Application No. 29/315,187 : ON PETITION
Filed: June 3, 2009 :
Attorney Docket No. KYLO/124DES/US :

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

The application was held abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed September 17, 2009. A Notice of Abandonment was mailed on December 31, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b), in that petitioner has supplied the required reply in the form of (1) $430 for payment of the issue fee; (2) the petition fee of $810; and (3) a proper statement of unintentional delay, the petition is **GRANTED**.

The terminal disclaimer under 37 CFR 1.137(d), filed November 18, 2010, has been accepted and made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERNEST D. BUFF, ESQ.
ERNEST D. BUFF & ASSOCIATES LLC.
231 SOMERVILLE ROAD
REDMINSTER NJ 07921

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Dapkins et al.	:	
Application No. 29/315,242	:	ON PETITION
Filed: June 8, 2009	:	
Attorney Docket No. 0417-15	:	

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

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. 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,[1]
(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.

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.[2]

The instant petition lacks item(s) (4). Since the instant application is a design application, a terminal disclaimer and fee must be submitted for revival, as stated in 37 CFR 1.137(d). A blank form is enclosed for petitioner's convenience.

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

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

Enclosure: PTO/SB/63 – Terminal Disclaimer

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ERNEST D. BUFF, ESQ.
ERNEST D. BUFF & ASSOCIATES LLC.
231 SOMERVILLE ROAD
REDMINSTER NJ 07921

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Dapkins et al.	:	
Application No. 29/315,242	:	ON PETITION
Filed: June 8, 2009	:	
Attorney Docket No. 0417-15	:	

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

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied the terminal disclaimer and fee.

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Application of :
Hans Karsten Moritz :
Application No. 29/315,268 : DECISION ON PETITION
Filed: June 10, 2009 :
Attorney Docket No. OAKLY1.392DDV1 :

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 fee on or before April 19, 2010, as required by the Notice of Allowance and Fee(s) Due mailed January 19, 2010. Accordingly, the date of abandonment of this application is April 20, 2010. A Notice of Abandonment was mailed May 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 $860.00, (2) the petition fee of $1,620.00; (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and fee of $140.00.

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.

The request for a terminal disclaimer is accepted and has been made of record.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STANLEY R. JONES
STAN JONES, PATENTS
221 N. Emeraud Dr. No. 31
St. George UT 84770

In re Application of		
BACA, HORATIO JOHN	:	OCT 13 2010
Application No.: 29/315,345	:	DECISION ON
Filing or 371(c) Date: June 16, 2009	:	PETITION
Attorney Docket Number:	:	

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on July 27, 2010.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the drawings as required by the Notice of Allowance, mailed April 5, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on July 21, 2010.

Petitioner states that the issue fee transmittal, payment by check and drawings were timely filed to USPTO on April 27, 2010. Petitioner attests a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT WERTZ
545 SOUTH 300 WEST
SALT LAKE CITY UT 84101

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Application of	:	
ROBERT WERTZ	:	
Application No. 29/315386	:	DECISION ON
Filing or 371(c) Date: 06/22/2009	:	PETITION
Attorney Docket Number: W-1413DES	:	

This is a decision on the renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed October 28, 2010.

This Petition is hereby granted.

This application became abandoned for failure to timely pay the issue fee on or before September 3, 2010 as required by the Notice of Allowance and Fee(s) Due, mailed June 3, 2010. Accordingly, the date of abandonment of this application is September 4, 2010. A Notice of Abandonment was mailed September 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee; (2) the petition fee; (3) a proper statement of unintentional delay, and (4) a Terminal Disclaimer.

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

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/315,594	07/07/2009	Keith Stonebraker	15617-4	1040

7590 04/15/2011

KLEIN, DENATALE, GOLDNER, COOPER et. al.
P.O. BOX 11172
BAKERSFIELD, CA 93389-1172

EXAMINER	
WILSON, MICHELLE E	

ART UNIT	PAPER NUMBER
2914	

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

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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April 14, 2011

KLEIN, DENATALE, GOLDNER, COOPER et. al.
P.O. BOX 11172
BAKERSFIELD CA 93389-1172

Re Application of
STONEBRAKER, KEITH : **DECISION ON PETITION**
Application No: **29/315594** : **ACCEPTANCE OF COLOR**
Filed: **07/07/2009** : **DRAWINGS**
Attorney Docket No: **15617-4** :

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 7, 2009.

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

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification 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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SEP 30 2010

OFFICE OF PETITIONS

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

In re Application of
Joseph Jeremy Saunders et al.
Application No. 29/315,687
Filed: July 15, 2009
Attorney Docket No. 1114.20911-DES

:DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed September 7, 2010 under 37 CFR 1.47(a).

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**. Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on July 15, 2009, without an oath or declaration. Accordingly, on July 30, 2009, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing.

In response, the instant petition, a four month extension of time request, and a declaration executed by joint inventor Joseph Jeremy Saunders but not by joint inventor John Quella has been filed. Petitioner claims that joint inventor Quella refuses to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor only that the Declaration and Assignment were sent to and received by joint inventor Quella.

While petitioners have indicated that the declaration and assignment were mailed to the last known address . for joint inventor Quella, petitioners must show proof that a copy of the Application (specification including claims, drawings, if any) and the Declaration were sent or given to the non-signing inventor for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers 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.

Petitioners must also present proof that if after having received the complete application, the non-signing inventor refuses to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted 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 facts.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as the deficiencies have been cured.

Furthermore, petitioners have provided declarations from Rick Anger, John Scanlon and Charleyne Brenneis acknowledging that they were incorrectly and without deceptive intent named as inventors, thus deleting them as inventors and to correct inventorship. Petitioners are advised that since the declaration submitted with the instant petition, is the first executed declaration of record and is found sufficient to correct inventorship pursuant to §1.48(f), the statements are not required and inventorship is set naming only Joseph Jeremy Saunders and John Quella as inventors. Thus no treatment under 37 CFR 1.48 is required.

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
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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[1] MPEP 409.03(d).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Application of
Joseph Jeremy Saunders et al.
Application No. 29/315,687
Filed: July 15, 2009
Attorney Docket No. 1114.20911-DES

:DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This decision is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a) filed January 28, 2011 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on July 15, 2009, without an oath or declaration. Accordingly, on July 30, 2009, a "Notice To File Missing Parts Of Nonprovisional Application" ("Notice To File Missing Parts") was mailed, requiring an executed oath or declaration in compliance with 37 CFR 1.63 and a surcharge for its late filing. In response, a petition, a four month extension of time request, and a declaration executed by joint inventor Joseph Jeremy Saunders but not by joint inventor John Quella was filed February 1, 2010. Petitioner claimed that joint inventor Quella refused to sign the declaration. The petition was dismissed in a decision mailed April 20, 2010 because the proof presented did not support a claim that a copy of the complete application had been sent to the non-signing inventor. The decision set a two month period for reply.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor.

In response to the decision dismissing the petition filed February 1, 2010, a request for reconsideration filed September 7, 2010 showed that a copy of the complete application was sent to and received by joint inventor John Quella at his last known address, however, petitioner maintained that the non-signing inventor had not returned an executed copy of the oath or declaration and thus refused to cooperate with the filing of the instant application.

A three month extension of time request was due to make the response filed September 7, 2010 timely and to avoid abandonment and was charged to Deposit account no. 06-2360, using the general authorization found in the petition.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Patent Application Processing for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN QUELLA
4324 WHITEFISH BAY ROAD
STURGEON BAY, WL 54235

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Joseph Jeremy Saunders et al.
Application No. 29/315,687
Filed: July 15, 2009
For: **CARVING STATION**

Dear Mr. Quella:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

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 Petitions Attorney at (571) 272-3212. 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 Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thompson Hine LLP
10 West 2nd Street
2000 Courthouse Plaza, NE
Dayton OH 45402-1758

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of :
Michael J. Olliges :
Application No. 29/315,703 : ON PETITION
Filed: July 16, 2009 :
Attorney Docket No. 09-0152A :

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed February 28, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 29, 2011. The Notice of Abandonment was mailed June 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of; (2) the petition fee of $1,620; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record.

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Theodore D. Lienesch**
Thompson Hine LLP
P.O. Box 8801
Dayton, OH 45401-8801

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LUCAS & MERCANTI LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of :
Leibeck :
Application No. 29/315,705 : ON PETITION
Filed: July 16, 2009 :
Attorney Docket No. ST-55 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 9, 2011.

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". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 11, 2010. This Office action set an extendable period for reply of two (2) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on July 12, 2010. The Office mailed a Notice of Abandonment on December 9, 2010.

Petitioner states that he did not receive the May 11, 2010 Office action. In support thereof, petitioner has included a copy of an incoming mail log covering the period from May 11, 2010 to

June 7, 2010. In addition, petitioner has submitted a copy of a docket report showing all of his replies docketed during the month of August, 2010.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.[1] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[2] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[3]

Here, the May 11, 2010 Office action set a two month period for reply. Accordingly, on renewed petition, petitioner is requested to submit a copy of a docket report showing all of his replies docketed for a due date of July 11, 2010.

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

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[1] See MPEP 711.03(c)(II).

[2] MPEP 711.03(c)(II) (emphasis added).

[3] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LUCAS & MERCANTI LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re Application of :
Leibeck :
Application No. 29/315,705 : ON PETITION
Filed: July 16, 2009 :
Attorney Docket No. ST-55 :

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 7, 2011.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 11, 2010. This Office action set an extendable period for reply of two (2) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on July 12, 2010. The Office mailed a Notice of Abandonment on December 9, 2010. Applicant filed a petition to withdraw the holding of abandonment on February 9, 2011. However, the petition was dismissed in a decision mailed on March 22, 2011.

With the instant renewed petition, petitioner has submitted a copy of a docket report showing all of his replies docketed for due dates during the month of July, 2010. An entry for the instant application is absent, supporting the conclusion that the May 11, 2010 non-final Office action was not received.

The application is being forwarded to Group Art Unit 2913 for re-mailing of the May 11, 2010 Office action to the above address of record.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : June 28,2011

In re Application of :

Reynald Chaput

Application No : 29315728

Filed: 17-Jul-2009

Attorney Docket No :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR.§ 1.36(b), filed June 28,2011

The request is **APPROVED**

The request was signed by Frederick Gotha (registration no. 27693) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name	Reynald L. Chaput
Name2	
Address 1	2535 W. 237th Street
Address 2	#114
City	Torrance
State	CA
Postal Code	90505
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	29315728
Filing Date	17-Jul-2009
First Named Inventor	Reynald Chaput
Art Unit	2916
Examiner Name	CHARLES HANSON
Attorney Docket Number	
Title	STRING CLAMP

◉ Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.

The reason(s) for this request are those described in 37 CFR:

10.40(c)(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	Reynald L. Chaput
Address	2535 W. 237th Street #114
City	Torrance
State	CA
Postal Code	90505
Country	US

I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Frederick Gotha/
Name	Frederick Gotha
Registration Number	27693

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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TERENCE P. O'BRIEN
AMER SPORTS NORTH AMERICA
8750 W. BRYN MAWR AVENUE
CHICAGO, IL 60631

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Gilles Renauf-Goud, et al. :
Application No. 29/315,747 : ON PETITION
Filed: July 21, 2009 :
Attorney Docket No. MOD 415/US :

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 **DISMISSED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before June 8, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 8, 2010. Accordingly, the date of abandonment of this application is June 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). The instant petition lacks item(s) (4).

A terminal disclaimer and the $140 terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted the application equivalent to the period of abandonment of the application, and must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121 or 365(c) to the application for which revival is sought.

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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

Enclosure: Terminal Disclaimer to Accompany Petition

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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TERENCE P. O'BRIEN
AMER SPORTS NORTH AMERICA
8750 W. BRYN MAWR AVENUE
CHICAGO, IL 60631

MAILED

NOV 24 2010

OFFICE OF PETITIONS

In re Application of :
Gilles Renauf-Goud, et al. :
Application No. 29/315,747 : DECISION ON PETITION
Filed: July 21, 2009 :
Attorney Docket No. MOD 415/US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings on or before June 8, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed March 8, 2010. Accordingly, the date of abandonment of this application is June 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of drawings, (2) the petition fee of $1620, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 571-72-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BEVERLY P. JONES
6219 CRUMPACKER DR.
ROANOKE VA 24012

MAILED

MAY 26 2011

OFFICE OF PETITIONS

In re Application of :
Beverly P. Jones :
Application No. 29/315,835 : DECISION ON PETITION
Filed: July 28, 2009 :
Title: Face/Makeup And Hair Protector For Protecting Clothing Garments :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 201, 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 Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed July 12, 2010, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 13, 2010.

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 (4).

With respect to item(4), since the instant application is a design application, a terminal disclaimer and fee must be submitted for revival, as stated in 37 CFR 1.137(d). A blank form is enclosed for petitioner's convenience.

Petitioner has submitted the terminal disclaimer fee but has failed to submit a completed terminal disclaimer form.

Additionally, 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.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/63

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BEVERLY P. JONES
6219 CRUMPACKER DR.
ROANOKE VA 24012

MAILED
JUN 15 2011
OFFICE OF PETITIONS

In re Application of :
Beverly P. Jones :
Application No. 29/315,835 : DECISION ON PETITION
Filed: July 28, 2009 :
Title: Face/Makeup And Hair Protector For Protecting Clothing Garments :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 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 Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed July 12, 2010, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment (previously submitted April 1, 2011), (2) the petition fee of $810.00 (previously paid April 1, 2010), (3) a proper statement of unintentional delay and (4) a Terminal Disclaimer with the accompany $70.00 fee (previously paid April 1, 2010).

The request for a terminal disclaimer is accepted and has been made of record.

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

This application is being referred to Technology Center AU 2910 for further processing in accordance with this decision on petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGE PORT CT 06605-1601

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
MORETTI :
Application No. 29/315,847 : DECISION ON PETITION
Filed: July 28, 2009 :
Attorney Docket No. Z01-179 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 6, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 7, 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 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; (3)a statement of unintentional delay; and (4) the terminal disclaimer (and fee set forth in 37 CFR 1.20(d) required by 37 CFR 1.137(d).

The Terminal Disclaimer filed February 16, 2011, is accepted and has been made of record.

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

This application is being referred to Technology Center AU 2914 for appropriate action by the Examiner in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT CT 06605-1601

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
MORETTI :
Application No. 29/315,848 : DECISION ON PETITION
Filed: July 28, 2009 :
Attorney Docket No. Z01-180 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before June 13, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 11, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $860; (2) the petition fee of $1620; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

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

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

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

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AUG 23 2011

OFFICE OF PETITIONS

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

In re Application of :
Luigi Moretti :
Application No. 29/315,848 : DECISION ON REQUEST FOR REFUND
Filed: July 28, 2009 :
Attorney Docket No. Z01-180 :

This is a decision on the Request For Refund filed August 10, 2011.

The request is **DISMISSED**.

A Petition for Revival of Application for Patent abandoned unintentionally under the provisions of 37 CFR 1.137(b); a Terminal Disclaimer; the Issue Fee Transmittal (PTO-85b), and authorization to charge for the above fees was received in the USPTO on June 29, 2011.

Applicant now files the above request for refund in the amount of $1,760.00, and states that, "On June 7, 2011, the undersigned attorney for applicant submitted an issue fee transmittal (Form PTOL-85) requesting the issue fee, due June 13, 2011, in the amount of Eight-Hundred-and Sixty Dollars ($860) be charged to Deposit Account No. 04-0838. At all times on June 7, 2011 Deposit Account No. 04-0838 contained adequate funds to cover the issue fee. On June 8, 2011 Deposit Account No. 04-0838 reached a low balance of Five-Hundred-And-Thirty-Nine Dollars ($539) but was replenished with a deposit of Five-Thousand Dollars ($5,000) that same day."

Applicant further states that "On June 27, 2011 a Notice of Abandonment was issued for applicant's failure to timely pay the required issue fee within the three month statutory period owing to insufficient funds in the deposit account."

Applicant also states that, "On behalf of the applicant, the undersigned attorney hereby requests a refund of One-Thousand-Seven-Hundred and Sixty Dollars ($1,760), representing the amount charged to the deposit account on June 29, 2011."

However, Office finance records indicate that insufficient funds were in applicant's deposit account no. 04-0838 at the time the issue fee was charged. Additionally, applicant is encouraged to note MPEP 711.03 (c), which states that:

> [T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

In view of the above, the request for refund is dismissed.

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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COLIN P. ABRAHAMS
SUITE 400
5850 CANOGA AVENUE
WOODLAND HILLS CA 91367

MAILED

APR 27 2011

OFFICE OF PETITIONS

In re Application of	:	
Vartan Shaljian	:	
Application No. 29/315,851	:	DECISION ON PETITION
Filed: July 30, 2009	:	
Attorney Docket No. **1443-102 US**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 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 submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed June 07, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 08, 2010.

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

In regard to item (1), the drawings filed December 28, 2010 do not show each of the sheets labeled as "Replacement Sheet" as required by 37 CFR 1.121(d).

The Terminal Disclaimer filed December 28, 2010, has been reviewed. The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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5850 CANOGA AVENUE
WOODLAND HILLS CA 91367

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of :
Vartan Shaljian :
Application No. 29/315,851 : DECISION ON PETITION
Filed: July 30, 2009 :
Attorney Docket No. **1443-102 US** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Allowability, mailed June 07, 2010, which set a period for reply of three (3) months. Accordingly, the date of abandonment of this application is September 08, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the corrected drawing (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the reply to the Notice of Allowance of June 07, 2010 is accepted as being unintentionally delayed.

The Terminal Disclaimer filed December 28, 2010, has been reviewed. The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Dac V Vu
3002 Dow Ave. Suite 124
Tustin CA 92780

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of :
Vu :
Application No. 29/315,856 : DECISION ON PETITION
Filed: July 29, 2009 :
Attorney Docket No. 007-001-D :
For: DOOR STOP

This is a decision on the petition under the unavoidable delay standard of 37 CFR 1.137(a), filed September 23, 2011, to revive the above-identified application. In the alternative, petitioner requests consideration under the unintentional delay standard of 37 CFR 1.137(b).

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

The petition under 37 CFR 1.137(b) 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 application became abandoned for failure to timely submit corrected drawings and a substitute declaration in response to the Notice of Allowability, mailed April 21, 2011, which set a non-extendable three month period for reply. The application became abandoned on July 22, 2011. A Notice of Abandonment was mailed on August 4, 2011.

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

The instant petition lacks items (3) and (4).

With respect to item (3) above:

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).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a).

A Notice of Allowance and Fee(s) Due, mailed on April 21, 2011, required applicant to submit the small entity issue fee by July 21, 2011. A Notice of Allowability, mailed April 21, 2011 required applicant to submit corrected drawings and a substitute declaration. Petitioner paid the $430.00 issue fee and filed a completed PTOL-85(B) on July 21, 2011. Unfortunately, petitioner did not submit corrected drawings or a substitute declaration.

Petitioner argues that the abandonment was unavoidable because (1) he received a Notice of Allowance and Fee(s) Due dated April 21, 2011 and not another Office action and since he had previously filed a declaration and replacement figures, he had no reason to expect anything other than the issue fee was due, (2) he substantially complied with the Office's requirements, and (3) he is a pro se applicant.

The Notice of Allowance and Fee(s) Due and the Notice of Allowability for a Design Application were mailed together. There was no irregularity in the mailing of the Notice of Allowance and Fee(s) Due and the Notice of Allowability for a Design Application. It appears that petitioner failed to read the whole 8 page mailing, assuming it was only a Notice of Allowance and Fee(s) Due. The requirements for timely submission of corrected drawings and a

substitute declaration are clearly stated in the Notice of Allowability for a Design Application, mailed April 21, 2011.

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The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The application became abandoned because petitioners did not submit a reply to the Notice of Allowability for a Design Application, mailed April 12, 2011. Petitioner did not exercise due care when he failed to read the entire 8 page mailing.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

In the instant case, petitioners have failed to provide adequate evidence that the delay was unavoidable.

With respect to (4) above:

37 CFR 1.137(d)(1) requires that a petition under 37 CFR 1.137(b) be accompanied by a terminal disclaimer and fee in a design application, regardless of the design application's filing date. As this application is a design application, petitioners are required to submit a terminal disclaimer and required $80.00 small entity fee.

The petition under 37 CFR 1.137(a) is dismissed.

Petitioner next requests consideration under 37 CFR 1.137(b).

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (4) above.

37 CFR 1.137(d)(1) requires that a petition under 37 CFR 1.137(b) be accompanied by a terminal disclaimer and fee in a design application, regardless of the design application's filing date. As this application is a design application, petitioners are required to submit a terminal disclaimer and required $80.00 small entity fee.

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

Pursuant to petitioner's authorization, deposit account no. 11-1159 will be charged the $810.00 small entity Rule 137(b) petition fee.

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

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

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

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Dac V Vu
3002 Dow Ave. Suite 124
Tustin CA 92780

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Application of :
Vu :
Application No. 29/315,856 : DECISION ON PETITION
Filed: July 29, 2009 :
Attorney Docket No. 007-001-D :
For: DOOR STOP

This is a decision on the renewed petition under the unintentional delay standard of 37 CFR 1.137(b), filed December 2, 2011, to revive the above-identified application.

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

This application became abandoned for failure to timely submit corrected drawings and a substitute declaration in response to the Notice of Allowability, mailed April 21, 2011, which set a non-extendable three month period for reply. The application became abandoned on July 22, 2011. A Notice of Abandonment was mailed on August 4, 2011.

Applicant has submitted a proper reply in the form of corrected drawings and an executed substitute declaration, an acceptable statement of the unintentional nature of the delay in responding to the April 21, 2011 Notice of Allowance and Fee(s) Due, a terminal disclaimer and required fee, and the petition fee. All requirements under 37 CFR 1.137(b) being met, the petition is granted.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application is being forwarded to the Office of Data Management for consideration of the corrected drawings, filed September 23, 2011.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Application of
Dac Vu :
Application No. 29/315,857 : DECISION ON
Filed: July 29, 2009 : PETITION
Attorney Docket No. 007-000-D :

This is in response to the petition to revive under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), filed September 23, 2011.

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

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

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability mailed April 21, 2011. This Notice set a statutory period for reply of three months. No corrected drawings having been received, the application became abandoned on July 22, 2011. The Office mailed a Notice of Abandonment on August 4, 2011.

Petition Under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee 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 this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

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."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

The instant petition does not meet requirements (3) and (4) above.

With regards to item (3), petitioner alludes to the fact that he did not receive the Notice of Allowability. However, petitioner has not submitted any evidence (e.g. a copy of a docket report or mail log) establishing non-receipt. In view thereof, the petition to revive based on unavoidable delay must be dismissed.

Receipt of the $270 fee for the petition under 37 CFR 1.137(a) is acknowledged.

Petition Under 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).

The instant petition does not meet requirement (4) above.

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

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

As the instant application is a design application, a terminal disclaimer and accompanying $80 fee is required.

The $810 fee for the petition under 37 CFR 1.137(b) has been charged to Deposit Account No. 11-1159, as authorized. No additional petition fee is required on renewed petition.

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
Alexandria, VA 22313-1450
www.uspto.gov

DAC V VU
3002 DOW AVE SUITE 124
TUSTIN CA 92780

MAILED

DEC 09 2011

OFFICE OF PETITIONS

In re Application of
Dac Vu :
Application No. 29/315,857 : DECISION ON
Filed: July 29, 2009 : PETITION
Attorney Docket No. 007-000-D :

This is in response to the renewed petition to revive under 37 CFR 1.137(b), filed December 2, 2011.

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

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability mailed April 21, 2011. This Notice set a statutory period for reply of three months. No corrected drawings having been received, the application became abandoned on July 22, 2011. The Office mailed a Notice of Abandonment on August 4, 2011. Applicant filed a petition to revive under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), on September 23, 2011. However, the petitions were dismissed in a decision mailed on September 29, 2011. The 1.137(a) petition was dismissed because petitioner did not submit evidence to establish non-receipt of the Notice of Allowability. The 1.137(b) petition was dismissed because applicant did not submit a terminal disclaimer (required as the instant application is a design application).

With the instant renewed petition, petitioner has submitted a terminal disclaimer. The other requirements for a grantable petition were previously satisfied with the petition filed September 23, 2011.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAC V VU
3002 DOW AVE. SUITE 124
TUSTIN CA 92780

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Application of :
Dac Vu : DECISION ON PETITION
Application No. 29/315,862 :
Filed: July 29, 2009 :
Attorney Docket Number: **007-002-D** :

This is a decision on the petition under 37 CFR 1.137(a)[1], filed on September 23, 2011, to revive the above-identified application. This petition also pleads in the alternative under 37 CFR 1.137(b)[2].

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

This application became abandoned July 22, 2011 for failure to file corrected drawings in response to the Notice of Allowability mailed on April 21, 2011. Accordingly, the Notice of Abandonment was mailed on August 4, 2011.

---

[1]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 Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

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

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

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

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

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

Petitioner asserts unavoidable delay in filing a response because "after having previously filed a declaration and replacement FIGs. 1-5, I had no reasons to expect that anything else was due but payment of the issue fee since I received a Notice of Allowance and not another Office Action.

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.[3]

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.[4]

Petitioner has not presented any evidence to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). The statements made by the petitioner only indicate that the petitioner did not read the Notice of Allowability which clearly noted the requirement for Corrected Drawings. As such, petitioner has not proven unavoidable delay in filing the response.

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

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The fee for treatment of the petition under 37 CFR 1.137(a) in the amount of $270 has been charged to the credit card provided and the fee for treatment of the petition under 37 CFR 1.137(b) in the amount of $810 has been charged to petitioner's deposit account no. 11-1159.

As it relates to the claim of unintentional delay however, the petition does not satisfy requirement (4) of the regulation.

Petitioner must submit a Terminal Disclaimer with any renewed petition since this is a design application. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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
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

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DEC 08 2011

OFFICE OF PETITIONS

DAC V VU
3002 DOW AVE. SUITE 124
TUSTIN CA 92780

In re Application of
Dac Vu
Application No. 29/315,862
Filed: July 29, 2009
Attorney Docket Number: **007-002-D**

: DECISION ON PETITION

This is a decision on the renewed petition filed December 2, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned July 22, 2011 for failure to file corrected drawings in response to the Notice of Allowability mailed on April 21, 2011. Accordingly, the Notice of Abandonment was mailed on August 4, 2011. A petition to revive was filed September 23, 2011 but was dismissed in a decision mailed October 6, 2011 because the petition was not accompanied by a terminal disclaimer.

All other requirements of 37 CFR 1.137(b), including the filing of a terminal disclaimer, and fee, which has been charged to the credit card provided, having now been met, this matter is being referred to the Publishing Division.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
29/315,905	08/05/2009	Susan E. Walter	Loshelegro Design2	9126

70107 7590 04/21/2011

PATRICIA L. RAY
5 Old Mill Road
Freeport, PA 16229

EXAMINER
MORRIS, SANDRA L

ART UNIT	PAPER NUMBER
2912	

NOTIFICATION DATE	DELIVERY MODE
04/21/2011	ELECTRONIC

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

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

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

RAYPATRICIA@YAHOO.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

4/21/2011

PATRICIA L. RAY
5 Old Mill Road
Freeport PA 16229

In re Application of	:	
SUSAN E. WALTERS	:	
Application No. 29/315,905	:	PETITION DECISION
Filed: August 05, 2009	:	
For: GAME BOARD AND	:	
CORRESPONDING GAME PIECES	:	
	:	
Attorney Docket No. Loshelegro Design2	:	

This is a decision on the petition, filed July 26, 2010, to restart the time period of the Ex Parte Quayle, dated April 28, 2010, the delay in this decision is regretted.

The petition is **GRANTED**.

A review of the official record indicates the Ex Parte Quayle dated April 28, 2010, was mailed to the wrong address. Accordingly, applicant's response filed July 26, 2010, is considered timely.

The application is being forwarded to the examiner for consideration of the amendment.

Should there be any questions with regard to this letter please contact Richard E. Chilcot, Jr., by letter addressed to the Director, Technology Center 2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-6777.

Robert Olszewski

Director, Technology Center 2900

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.
29/316,359	09/17/2009	Jean-François Blanc	28944/45001	8561

7590 02/25/2011

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

EXAMINER	
DAVIS, ANTOINE D	

ART UNIT	PAPER NUMBER
2917	

NOTIFICATION DATE	DELIVERY MODE
02/25/2011	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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

February 23, 2011

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

re Application of
BLANC, JEAN-FRANçOIS, Et. Al : **DECISION ON PETITION**
Application No: **29/316359** : **ACCEPTANCE OF COLOR**
Filed: **09/17/2009** : **DRAWINGS**
Attorney Docket No: **028944/45001** :

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) September 17, 2009.

The petition is **GRANTED**.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 24 2011

OFFICE OF PETITIONS

ISAAC DANIEL GROUP , INC.
3401 SW 160TH AVE.
SUITE 430
MIRAMAR FL 33027

In re Application of	:	
Daniel et al.	:	DECISION REFUSING STATUS
Application No. 29/316,395	:	UNDER 37 CFR 1.47(a)
Filed: September 21, 2009	:	
Title: Play & Go Intelligent Game Controller	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 30, 2010.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," 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).

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. Applicant lacks item (1) set forth above.

As to item (1), in Exhibit 13 provided with the instant petition, the Declaration that was sent to Roberto Quiles does not include Daniel Olamide as the first inventor. As such, the declaration was improper. A proper Declaration should be sent to Roberto Quiles at the new Reston, Virginia address.

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

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

By Hand: U. S. Patent and Trademark Office
Custom 2er Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/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

ISAAC DANIEL GROUP , INC.
3401 SW 160TH AVE.
SUITE 430
MIRAMAR FL 33027

MAILED

JUN 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Daniel et al.	:	
Application No. 29/316,395	:	DECISION GRANTING STATUS
Filed: September 21, 2009	:	STATUS UNDER 37 CFR 1.47(a)
Title: Play & Go Intelligent Game Controller	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 25, 2011.

The petition is **GRANTED**.

Petitioner has shown that the nonsigning inventor, Roberto Quiles, has refused to join in the filing of the above-identified application.

The above-identified 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 Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding 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 2913 for examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERTO QUILES
11511 MAPLE RIDGE ROAD
RESTON, VA 20190

MAILED

JUN 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Daniel et al.	:	
Application No. 29/316,395	:	ON PETITION
Filed: September 21, 2009	:	
Title: Play & Go Intelligent Game Controller	:	

Mr. Quiles,

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 in the application, counsel of record 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) 272-3206. 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 Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 24 2011

OFFICE OF PETITIONS

ISAAC DANIEL GROUP , INC.
3401 SW 160TH AVE.
SUITE 430
MIRAMAR FL 33027

In re Application of	:	
Daniel et al.	:	DECISION REFUSING STATUS
Application No. 29/316,396	:	UNDER 37 CFR 1.47(a)
Filed: September 21, 2009	:	
Title: Play & Go Intelligent Game Controller with Hand Grip	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 30, 2010.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," 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).

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. Applicant lacks item (1) set forth above.

As to item (1), in Exhibit 13 provided with the instant petition, the Declaration that was sent to Roberto Quiles does not include Daniel Olamide as the first inventor. As such, the declaration was improper. A proper Declaration should be sent to Roberto Quiles at the new Reston, Virginia address.

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

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By Hand: U. S. Patent and Trademark Office
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401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries should be directed to Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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

ISAAC DANIEL GROUP , INC.
3401 SW 160TH AVE.
SUITE 430
MIRAMAR FL 33027

MAILED

JUN 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Daniel et al.	:	
Application No. 29/316,396	:	DECISION GRANTING STATUS
Filed: September 21, 2009	:	STATUS UNDER 37 CFR 1.47(a)
Title: Play & Go Intelligent Game Controller with Hand Grip	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed April 25, 2011.

The petition is **GRANTED**.

Petitioner has shown that the nonsigning inventor, Roberto Quiles, has refused to join in the filing of the above-identified application.

The above-identified 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 Rule 1.47(c), this Office will forward notice of this application's filing to the nonsigning inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding 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 2913 for examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERTO QUILES
11511 MAPLE RIDGE ROAD
RESTON, VA 20190

MAILED

JUN 07 2011

OFFICE OF PETITIONS

In re Application of :
Daniel et al. :
Application No. 29/316,396 : ON PETITION
Filed: September 21, 2009 :
Title: Play & Go Intelligent Game Controller with Hand Grip :

Mr. Quiles,

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 in the application, counsel of record 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) 272-3206. 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 Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARD & OLIVO
SUITE 300
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

MAILED

AUG 25 2010

OFFICE OF PETITIONS

In re Application of :
Michele Witenko, et al. :
Application No. 29/316,559 : ON PETITION
Filed: October 6, 2009 :
Attorney Docket No. 366-006 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 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) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 26, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 27, 2009.

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

The terminal disclaimer filed herewith renewed petition is not signed by an attorney of record (See 37 CFR 1.321(a) (1)). A power of attorney has not been filed in the above-identified application.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Terri Johnson 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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WARD & OLIVO
SUITE 300
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Michele Witenko, et al.	:	
Application No. 29/316,559	:	DECISION ON PETITION
Filed: October 6, 2009	:	
Attorney Docket No. 366-006	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed October 26, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an oath or declaration and $130 surcharge, (2) the petition fee of $1,620, (3) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d), and (4) a proper statement of unintentional delay.

The terminal disclaimer has been accepted.

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

This application is being referred to the Office of Patent Application Processing for appropriate action on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Enclosures: Notice of Acceptance of Power of Attorney

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
29/316,559	10/06/2009	Michele Witenko	366-006

CONFIRMATION NO. 6447

27776
WARD & OLIVO
SUITE 300
382 SPRINGFIELD AVENUE
SUMMIT, NJ 07901

POA ACCEPTANCE LETTER

OC00000043867767

Date Mailed: 10/06/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/21/2010.

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

/tsjohnson/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jan-11

DAVID R PRESTON & ASSOCIATES APC
5850 OBERLIN DRIVE
SUITE 300
SAN DIEGO CA 92121

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Jill LaCorte : DECISION ON PETITION
Application Number: 29/316703 :
Filing Date: 10/22/2009 :
Attorney Docket Number: LCB-101.P.3 :

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

The petition is **GRANTED**.

The application became abandoned on September 2, 2010, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on June 1, 2010, which set a three (3)-month statutory period for reply. On September 1, 2010, the Fee(s) Transmittal form was filed with a check for the issue fee, but the check was returned as unpaid for insufficient funds, and counsel's deposit account did not contain sufficient funds to charge the issue fee. Notice of Abandonment was mailed on September 21, 2010.

Receipt of the issue fee is acknowledged.

The terminal disclaimer filed on October 25, 2010, under 37 CFR 1.137(c) has been entered and made of record. Effective September 8, 2000, 37 CFR 1.137(c)(1) has been added to state that a terminal disclaimer filed pursuant to this rule must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: 1) the period of abandonment of the application; or 2) the period extending beyond twenty years from the date on which the application for patent was filed in the United States, or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c).[1] Accordingly, the period of the terminal disclaimer filed on October 25, 2010, will be equivalent

[1] 65 Fed. Reg. 54,674 (2000).

to the lesser period (1) or (2), as noted above, for this application.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

November 4, 2010

Patent No.: D623,079 S
Applicant : Jeffrey Allen Disher
Issued : September 7, 2010
For : **CHALK ROAD MAKER**
Atty Docket No.: **DISHER CHALK ROAD MAKER**

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 Rules 1.323.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, not correction is in order here under Rule 1.323.

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent

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

A petition under C.F.R. 1.324 should include:

A. the processing fee set forth in 37 CFR 1.20(b) (currently $130);
B. a statement from each person being added as an inventor that the inventorship occurred without any deceptive intention on his or her part, a statement from the current inventors agreeing to the change of inventorship of stating that they have no disagreement in regard to the requested change, and a statement from all assignees of the current inventors agreeing to the change of inventorship in the patent.

Further correspondence concerning this matter should be filed and directed to Supervisory Patent Examiner of Technology Center 2917 at the U.S. Patent and Trademark Office.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Jason Grant
Disher Design & Development
Suite 230
201 W. Washington Ave
Zeeland MI 49464

AJ

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-Paper No.: _____

DATE : March 3, 2011

TO SPE OF : ART UNIT 2915
SUBJECT : Request for Certificate of Correction for Appl. No.: 29/ 316771 patent no D622118

CofC mailroom date: 2-9-11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments: _____

/Robert M. Spear/ 2915
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 19, 2011

TO SPE OF : ART UNIT 2915
SUBJECT : Request for Certificate of Correction for Appl. No. 29/316772 patent No.:D620774 B2
C of C mailroom date:--5-12-11

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.

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

Comments: _____

/Robert M. Spear/ 2915

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

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

APR 19 2011

In re Application of
SHE, LI MIN et al.
Application No.: 29/316,834
Filing or 371(c) Date: November 6, 2009
Attorney Docket Number: 3239-9790US

: 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 April 5, 2011.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance mailed December 16, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on April 4, 2011.

Petitioner states that the issue fee transmittal and payment were timely filed via the Express Mail" mailing label No. EM417185622 with a "Date in" of February 9, 2011. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission. The issue fee of $430.00 was included with check, which was erroneously charged to the wrong application.

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of:
Gregg Bond
Application No. 29/316,947
Filed: November 13, 2009
Attorney Docket No. 8914P005

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 non-final Office action mailed February 1, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 2, 2010. A Notice of Abandonment was mailed on October 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, (3) a proper statement of unintentional delay and, (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the amendment is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

This application is being referred to Technology Center AU 2913 for appropriate action by the Examiner in the normal course of business on the reply received November 8, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 0 9 2010

OFFICE OF PETITIONS

MORLAND C. FISCHER
SUITE 1300
2030 MAIN STREET
IRVINE CA 92614

In re Application of :
Michael W. DIXON :
Application No. 29/316,969 : ON PETITION
Filed: November 16, 2009 :
Attorney Docket No: DIX-108 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2010.

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue fee on or before September 23, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 23, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 24, 2010.

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

With respect to item (4): The Terminal Disclaimer submitted with the petition dated October 20, 2010, cannot be accepted because it is not signed by an attorney of record. Further, the Terminal Disclaimer cannot be accepted because the owner has not been specified. Accordingly, the Terminal Disclaimer does not meet the requirements set out in 37 CFR 1.137(d).

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.

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.

/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

MORLAND C. FISCHER
SUITE 1300
2030 MAIN STREET
IRVINE CA 92614

MAILED
DEC 27 2010
OFFICE OF PETITIONS

In re Application of :
Michael W. DIXON :
Application No. 29/316,969 : DECISION ON PETITION
Filed: November 16, 2009 :
Attorney Docket No. DIX-108 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before September 23, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 23, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $430 (2) the petition fee of $810; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Patent No. D612851 :
Issue Date: March 30, 2010 :
Application No. 29/317,061 : NOTICE
Filed: April 22, 2008 :
Attorney Docket No. D1689-161 V7580 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 13, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED.**

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

This file is being forwarded to Files Repository.

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

/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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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Roth et al.	:	
Application No. 29/317198	:	
Filing or 371(c) Date: 04/24/2008	:	ON PETITION
Pat. Num.: D634984	:	
Issue Date: 03/29/2011	:	
Attorney Docket Number:	:	
86445DDV(308092)	:	

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
www.uspto.gov

MAILED

MAY 11 2011

OFFICE OF PETITIONS

Director of IP
5521 Hellyer Avenue
San Jose CA 95138

In re Application of :
Paul M. Adriani :
Application No. 29/317,529 : DECISION ON PETITION
Filed: April 30, 2008 :
Attorney Docket No. NSL-D004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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 submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on January 15, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on April 16, 2010. A Notice of Abandonment was mailed on May 4, 2010.

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

As to item (4) since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365 (c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $70 is required. If the terminal disclaimer is signed by the assignee, an assignee must comply with the requirements of 37 CFR 3.73(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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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5521 Hellyer Avenue
San Jose CA 95138

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AUG 02 2011
OFFICE OF PETITIONS

In re Application of :
Paul M. Adriani :
Application No. 29/317,529 : DECISION ON PETITION
Filed: April 30, 2008 :
Attorney Docket No. NSL-D004 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 2011, 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 Allowability mailed on January 15, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on April 16, 2010. A Notice of Abandonment was mailed on May 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 corrected drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAHAMEDI PARADICE KREISMAN LLP
550 WINCHESTER BOULEVARD
SUITE 605
SAN JOSE CA 95128

MAILED

OCT 0 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Yoshimichi Matsuoka	:	
Application No. 29/317,629	:	DECISION ON PETITION
Filed: May 2, 2008	:	
Attorney Docket No. PALM.P1055	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 23, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely to submit Corrected Drawings on or before August 3, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 3, 2010. Accordingly, the date of abandonment of this application is August 4, 2010. A Notice of Abandonment was mailed August 16, 2010.

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

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 (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer and fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. **A terminal disclaimer cannot be signed by an attorney in representative capacity.**

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Yoshimichi Matsuoka	:	
Application No. 29/317,629	:	DECISION ON PETITION
Filed: May 2, 2008	:	
Attorney Docket No. PALM.P1055	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 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.

This application became abandoned for failure to timely to submit Corrected Drawings on or before August 3, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 3, 2010. Accordingly, the date of abandonment of this application is August 4, 2010. A Notice of Abandonment was mailed August 16, 2010.

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

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)(II)(C) and (D). The instant petition lacks item (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer and fee are required by 37 CFR 1.137(b) for revival. Further, a terminal

disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. **A terminal disclaimer cannot be signed by an attorney in representative capacity.**

Petitioner has submitted an "Authorization To Act In A Representative Capacity". However, as pointed out above a terminal disclaimer cannot be signed by an attorney in representative capacity. This is also stated on the form itself wherein it states "Accordingly, the practitioner named above does **not** have authority to sign .....a disclaimer, a power of attorney, or other document requiring the signature of the applicant, assignee of the entire interest or an attorney of record." Therefore, the Terminal Disclaimer submitted October 18, 2010 is improper and remains unacceptable.

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.

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

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: MAHAMEDI PARADICE KREISMAN LLP
550 WINCHESTER BOULEVARD
SUITE 605
SAN JOSE CA 95128

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED
MAY 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Yoshimichi Matsuoka	:	
Application No. 29/317,629	:	DECISION ON PETITION
Filed: May 2, 2008	:	
Attorney Docket No. PALM.P1055	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2011 and May 6, 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.

This application became abandoned for failure to timely to submit Corrected Drawings on or before August 3, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 3, 2010. Accordingly, the date of abandonment of this application is August 4, 2010. A Notice of Abandonment was mailed August 16, 2010.

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

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)(II)(C) and (D). The instant petition lacks item (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer and fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. A terminal disclaimer cannot be signed by an attorney in representative capacity.

Petitioner has submitted a terminal disclaimer naming an improper assignee. According to USPTO records Hewlett Packard Development Company, L.C. is not the current assignee in the above-identified application.

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

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Yoshimichi Matsuoka	:	
Application No. 29/317,629	:	DECISION ON PETITION
Filed: May 2, 2008	:	
Attorney Docket No. PALM.P1055	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 1, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before August 3, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 3, 2010. Accordingly, the date of abandonment of this application is August 4, 2010. A Notice of Abandonment was mailed August 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Corrected Drawings (previously submitted August 23, 2010), (2) the petition fee of $1,620.00 (previously submitted August 23, 2010), (3) a proper statement of unintentional delay, and (4) a Terminal Disclaimer and required $140.00 fee.

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.

The request for a terminal disclaimer is accepted and has been made of record.

Further, petitioner has submitted two unnecessary duplicate terminal disclaimer fees totaling $280.00. This amount will be refunded to petitioner's deposit account in due course.

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 and review of the Corrected Drawings submitted August 23, 2010.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/04/11

TO SPE OF : ART UNIT 2913

SUBJECT : Request for Certificate of Correction for Appl. No 29/317,635 D597345

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

Caron D Veynar

CARON D. VEYNAR
SUPERVISORY PATENT EXAMINER

2913

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

MRS. JANET LEE
1747 CHADWICKE CIRCLE
NAPERVILLE, IL 60540

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Paul Wood Yik Lam :
Application No. 29/318,059 : ON PETITION
Filed: May 13, 2008 :
Attorney Docket No.: None :

This is a decision in response to the petition filed June 21, 2010, which is treated as a petition under 37 CFR 1.8(b) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

The application was held abandoned for a failure to timely respond to a Notice of Non-Compliant Amendment mailed December 8, 2008, which set a one-month period for response. Accordingly, a reply was due on or before January 8, 2009.

Petitioner argues that a timely response was filed and request that the abandonment be withdrawn. Petitioner explains that a revised amendment was filed using a Certificate of Mailing under 37 CFR 1.8 and was mailed to the USPTO via the Hong Kong Post. A copy of Mailing Receipt No. EE79 7035 653H K, showing a delivery date of December 17, 2008, has been provided. It is noted that a copy of the revised amendment was not provided by petitioner.

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 does not satisfy item (2) above. Accordingly, the abandonment cannot be granted at this time.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[1]

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 17 2010

OFFICE OF PETITIONS

MRS. JANET LEE
1747 CHADWICKE CIRCLE
NAPERVILLE, IL 60540

In re Application of :
Paul Wood Yik Lam :
Application No. 29/318,059 : ON PETITION
Filed: May 13, 2008 :
Attorney Docket No.: None :

This is a decision in response to the renewed petition filed September 1, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that the application was held abandoned for a failure to timely respond to a Notice of Non-Compliant Amendment (Notice) mailed December 8, 2008, which set a one-month period for response. On June 21, 2010, a petition to withdraw the abandonment under the provisions of 37 CFR 1.8 was filed; however, the petition was dismissed in a decision mailed August 18, 2010. In response on September 1, 2010, the present petition was filed, along with a copy of the revised amendment shown to have been filed on December 17, 2008.

On reconsideration, 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 December 8, 2008 Notice is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition on September 1, 2010 will be accepted in place of the reply shown to have been filed on December 17, 2008.

This application is being referred to Technology Center AU 2913 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES 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 ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS, CA 91344

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of :
Joao N. Botelho :
Application No. 29/318,075 : ON PETITION
Filed: May 13, 2008 :
Attorney Docket No. WRA08001USDP :

This is a decision on the petition, filed July 19, 2010 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 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 above-identified application became abandoned for failure to submit the Design Issue fee in a timely manner in reply to the Notice of Allowance mailed September 22, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 23, 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(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(s) item(s) (2) and (4).

As to item (2), petitioner submitted $700 with petition on July 19, 2010. The Office has applied $430 toward the payment of the design issue fee. The petition fee as set forth in 37 CFR 1.17(m) is $810 which leaves a balance of $540.

As to item (4), the petition does not satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the terminal disclaimer was not received. Accordingly, this petition

can not be treated until the terminal disclaimer and $610 ($540 balance and $70 terminal disclaimer fee) are received.

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

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

By mail: Mail Stop PETITION
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

cc: Joao N. Botelho
2285 Urbandale Drive
Ottawa ON KIG 3G5 Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOAO BOTELHO
2285 URBANDALE DRIVE
OTTAWA ON K1G 3G5 CA CANADA

MAILED

JAN 3 1 2011

OFFICE OF PETITIONS

In re Application of :
Joao N. Botelho :
Application No. 29/318,075 : ON PETITION
Filed: May 13, 2008 :
Attorney Docket No. WRA08001USDP :

This is a decision on the petition filed October 18, 2010 which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center AU 2911 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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PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE WA 98111-1208

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Wing Kit LUI	:	
Application No. 29/318,528	:	DECISION ON PETITION
Filed: May 21, 2008	:	
Attorney Docket No. 54851.8045.US00	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 02, 2009 and resubmitted December 01, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Allowability, mailed February 12, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the corrected drawings; (2) the petition fee of $810.00; (3) a proper statement of unintentional delay and; (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the reply to the Notice of Allowability of February 12, 2009 is accepted as having been unintentionally delayed

The terminal disclaimer is accepted and has been made of record.

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

This application is being referred to the Office of Data Management.

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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MAILED

AUG 19 2010

OFFICE OF PETITIONS

BRENT A. CAPEHART
P.O.BOX 1797
HARRISON AR 72602

In re Application of :
Nathan J. Robb :
Application No. 29/318,651 : DECISION ON PETITION
Filed: May 23, 2008 :
Attorney Docket No. **ROB762.0001** :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 04, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit corrected Drawings on or before August 26, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 26, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $810; and (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely file corrected drawings as required by the Notice of May 26, 2009 is accepted as having been unintentionally delayed.

The Power of Attorney filed with the petition is accepted and has been made of record.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing

application. A copy of this decision should be attached to the cover letter.

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

This application is being referred to Publishing Division for further processing in accordance with this decision on petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BULLIVANT HOUSER BAILEY PC
1415 L STREET
SUITE 1000
SACRAMENTO CA 95814

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Daniel Kass :
Application No. 29/318,660 : ON PETITION
Filed: June 27, 2008 :
Attorney Docket No. 30377/00002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2011, to revive the above-identified application and a petition under 37 CFR 1.182 to expedite.

The petition under 37 CFR 1.182 to expedite the petition is **GRANTED.**

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

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

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 27, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 28, 2010. See MPEP 1215.04. The Notice of Abandonment was mailed August 16, 2010.

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

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

The terminal disclaimer filed herewith petition cannot be accepted because it was not signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. A terminal disclaimer cannot be signed by an attorney in representative capacity.

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

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

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

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER S. TUTTLE**
806 W. BROADWAY, SUITE 600
PORTLAND, OR 97205

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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BULLIVANT HOUSER BAILEY PC
1415 L STREET
SUITE 1000
SACRAMENTO CA 95814

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MAR 09 2011
OFFICE OF PETITIONS

In re Application of :
Daniel Kass :
Application No. 29/318,660 : ON PETITION
Filed: June 27, 2008 :
Attorney Docket No. 30377/00002 :

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Continued Prosecution Application (CPA) under 37 CFR 1.53(d); (2) the petition fee of $810; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record.

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 the CPA.

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

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

This application is being referred to Technology Center AU 2915 for processing of the CPA.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Christopher S. Tuttle**
806 S.W. Broadway, Suite 600
Portland, OR 97205

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MCDERMOTT, WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Application of
Luke Pearson, et al.
Application No. 29/318,692
Filed: May 26, 2008
Attorney Docket No.: 004842-0054

ON PETITION

This is a decision in response to the renewed petition, filed February 11, 2010, to revive the above-identified design application under the provisions of 37 CFR 1.137(b). The delay in responding is regretted; however, the renewed petition was recently referred to the Office of Petitions for consideration.

The petition is **GRANTED**.

The above-identified application became abandoned for a failure to respond in a timely manner to the Notice of Allowability mailed June 1, 2009. A Notice of Abandonment was mailed on September 29, 2009. On October 30, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed January 6, 2010. In response, on February 11, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings;; (2) the petition fee of $1,620; and (4) a terminal disclaimer and the $140 fee required by 37 CFR 1.137(d).

The terminal disclaimer filed February 11, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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SEP 10 2010
OFFICE OF PETITIONS

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

In re Application of :
SCHULZ, ROLF :
Application No. 29/318,759 : DECISION ON PETITION
Filed: 05/27/2008 :
Attorney Docket No. 24272-0002001 :

This is decision on the petition under 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

On October 17, 2009, the Office mailed a Notice of Allowability, which set a statutory period of three months to respond. In the absence of a timely filed response, the application became abandoned on January 18, 2010. On January 22, 2010, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely submit a response to the Notice of Allowability is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record.

The application is being referred to the Office of Data Management for issuance of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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 09 2010

OFFICE OF PETITIONS

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

In re Application of :
SCHULZ, ROLF :
Application No. 29/318,759 : DECISION ON PETITION
Filed: 05/27/2008 :
Attorney Docket No. 24272-0002001 :

This is decision on the petition under 37 CFR 1.137(b), filed March 22, 2010, to revive the above-identified application.

On October 17, 2009, the Office mailed a Notice of Allowability, which set a statutory period of three months to respond. In the absence of a timely filed response, the application became abandoned on January 18, 2010. On January 22, 2010, the Office mailed a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely submit a response to the Notice of Allowability is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record.

The application is being referred to the Office of Data Management for issuance of the patent.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 8/12/10

TO SPE OF : ART UNIT: 2914 Attn: WINDMULLER JOHN

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/318985 Patent No.: **D614584S**

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

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Please check the Drawings

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

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

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

Comments: Approved. All changes apply. /John Windmuller/ Design Patent Examiner 8/13/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 8/12/10

TO SPE OF : ART UNIT: 2914 Attn: WINDMULLER JOHN

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/318985 Patent No.: **D614584S**

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

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Please check the Drawings

Tasneem Siddiqui

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

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

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

Comments: Approved. All changes apply. /John Windmuller/ Design Patent Examiner 8/13/10

/Celia Murphy/ SPE/AU 2914

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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GOUDREAU GAGE DUBUC
2000 MCGILL COLLEGE
SUITE 2200
MONTREAL QC H3A 3H3 CA CANADA

MAILED
AUG 05 2010
OFFICE OF PETITIONS

In re Patent No. D594,727 :
Issue Date: June 23, 2009 :
Application No. 29/319,001 : DECISION ON PETITION
Filed: June 2, 2008 :
Attorney Docket No. **773/14227.31** :

This is a decision on the petition, filed, July 14, 2010, 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 assignee's name is "Garant GP." and that the incorrect assignee's name was 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 "Garant GP" is the assignee 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 Terri Johnson at (571) 272-2991. 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.

Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110616

DATE : June 13, 2011

TO SPE OF : ART UNIT 2912

SUBJECT : Request for Certificate of Correction on Patent No.: D585748

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:

/STELLA REID/
Supervisory Patent Examiner.Art Unit 2912

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

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Patent No.: D611,072	:	
Issue Date: March 2, 2010	:	
Application No.: 29/319,236	:	DECISION ON PETITION
Filed: June 5, 2008	:	
Attorney Docket No.: 1033839-000052	:	

This is a decision on the petition under 37 CFR 1.182, filed October 4, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent. The requisite petition fee has been paid.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kirk M. Nuzum appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person in the Office of Data Management at (703) 756-1555.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Ollie Person, RSQ, 9th Floor, Room D30-A (Fax No. 571-270-9764)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-23-11 Paper No.: _____

TO SPE OF : ART UNIT 2913

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/319,333 Patent No.: D642819

CofC mailroom date: 8-24-11

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

FOR IFW FILES: Check fig.

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

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

FOR PAPER FILES:

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

Caron D. Veynar
CARON D. VEYNAR
SUPERVISORY PATENT EXAMINER
SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Patent No. D602514 :
Issued: October 20, 2009 :
Application No. 29/319,672 : ON PETITION
Filed: June 12, 2008 :
Attorney Docket No. 3156.270US01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 11, 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of :
Bremmon, et al. :
Application No. 29/319,787 :
Filed: June 15, 2008 :
Attorney Docket No. 3156.246US02 :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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4800 IDS CENTER
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MINNEAPOLIS MN 55402-2100

MAILED
MAR 11 2011
OFFICE OF PETITIONS

In re Application of	:	
Bremmon, et al.	:	
Application No. 29/319,788	:	NOTICE
Filed: June 15, 2008	:	
Attorney Docket No. 3156.247US02	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/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
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Alexandria, VA 22313-1450
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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Bremmon, et al.	:	
Application No. 29/319,789	:	NOTICE
Filed: June 15, 2008	:	
Attorney Docket No. 3156.249US02	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

In re Application of :
Bremmon, et al. :
Application No. 29/319,790 : NOTICE
Filed: June 15, 2008 :
Attorney Docket No. 3156.250US02 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED
APR 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Jeff Bremmon, et al.	:	
Application No. 29/319,792	:	NOTICE
Filed: June 15, 2008	:	
Attorney Docket No. 3156.275US01	:	

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

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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KENING LI
PINSENT MASONS LLP
C/O FOUNTAIN LAW GROUP, INC
18201 VON KARMAN AVENUE, SUITE 960
IRVINE CA 92612

MAILED
DEC 28 2010
OFFICE OF PETITIONS

In re Application of	:	
Tsungyi CHUANG et al.	:	
Application No. 29/319,827	:	DECISION ON PETITION
Filed: June 16, 2008	:	
Attorney Docket No. 636576-07004	:	

This is a decision on the renewed petition, filed July 21, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed May 26, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 27, 2009.

A review of the office record indicates that the Notice of Allowability mailed May 26, 2009 indicated that corrected drawings must be submitted, including the changes required by the examiner's amendment. (See, Notice of Allowability, No. 6).

The petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

/Thurman K. Page/
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KENING LI
PINSENT MASONS LLP
C/O FOUNTAIN LAW GROUP, INC
18201 VON KARMAN AVENUE, SUITE 960
IRVINE CA 92612

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of :
Tsungyi CHUANG et al. :
Application No. 29/319,827 : DECISION ON PETITION
Filed: June 16, 2008 :
Attorney Docket No. 636576-07004 :

This is a decision on the renewed petition, filed February 28, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed May 26, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 27, 2009.

Petitioner asserts that the Holding of Abandonment is in error because the notice of allowance did not require that corrected drawings be submitted. Petitioner states that the Examiner's Amendment corrects the text of the description of the drawings, not the drawings *per se*.

The petition requesting withdrawal of the holding of abandonment cannot be granted at this time. It was the responsibility of the Applicant to respond in writing to the Notice of Allowance issues called to the applicant's attention. A review of the file here indicates that the petitioner did not respond in writing to the issues raised in the Notice of Allowance. Since no response was received the application was statutorily abandoned August 27, 2009. Hence the holding of abandonment was proper.

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), **$1,620.00 for a large entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the **$1,620.00** petition fee.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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PINSENT MASONS LLP
C/O FOUNTAIN LAW GROUP, INC
18201 VON KARMAN AVENUE, SUITE 960
IRVINE CA 92612

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of	:	
Tsungyi CHUANG et al.	:	
Application No. 29/319,827	:	DECISION ON PETITION
Filed: June 16, 2008	:	
Attorney Docket No. 636576-07004	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed May 26, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 27, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of $1,620.00, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely file corrected drawings as required by the Notice of May 26, 2009 is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record.

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

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

Michelle R. Eason
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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Lauson & Tarver LLP
880 Apollo Street
SUITE 301
El Segundo CA 90245

MAILED

OCT 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Theodore Roland Lewis,	:	
Application No. 29/319,856	:	DECISION ON PETITION
Filed: June 16, 2008	:	
Attorney Docket No. 09-18142	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 16, 2010 in the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings and a new oath/declaration in a timely manner in reply to the Notice of Allowability, mailed July 13, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on October 14, 2009. The Notice of Abandonment was mailed December 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of formal drawings and new declaration, (2) the petition fee of $810, (3) a terminal disclaimer and fee as required by 37 CFR 1.137(d), and (4) a proper statement of unintentional delay.

The terminal disclaimer has been accepted.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

In re Application of	:	
Christopher VOWELLS et al.	:	
Application No. 29/319,912	:	DECISION ON PETITION
Filed: June 17, 2008	:	
Attorney Docket No. **FC06833US01**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 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 submit corrected drawings and a substitute oath or declaration in a timely manner in reply to the Notice of Allowability, mailed March 11, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 12, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (4) in that the Terminal Disclaimer does not list the proper Application Number.

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) 272-272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **SCHERING-PLOUGH CORPORATION**
2000 GALLOPING HILL ROAD
PATENT DEPARTMENT, K-6-1, 1990
KENILWORTH NJ 07033

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MERCK
126 East Lincoln Ave
RY60-30
Rahway NJ 07065

MAILED
APR 28 2011
OFFICE OF PETITIONS

In re Application of :
Christopher VOWELLS et al. :
Application No. 29/319,912 : DECISION ON PETITION
Filed: June 17, 2008 :
Attorney Docket No. **FC06833US01** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 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 submit corrected drawings and a substitute oath or declaration in a timely manner in reply to the Notice of Allowability, mailed March 11, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 12, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (4) in that the Terminal Disclaimer does not list the proper Application Number.

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) 272-272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCK
126 East Lincoln Ave
RY60-30
Rahway NJ 07065

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of :
Christopher Vowells et al. :
Application No. 29/319,912 : DECISION ON PETITION
Filed: June 17, 2008 :
Attorney Docket No. **FC06833US01** :

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

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings and a substitute oath or declaration in a timely manner in reply to the Notice of Allowability, mailed March 11, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 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 the corrected formal drawings, and a substitute Oath/Declaration(2) the petition fee of $1620, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely file corrected drawings as required by the Notice of March 11, 2009 is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The Terminal Disclaimer fee of $140 included with the renewed petitions on March 25, 2011 and May 16, 2011 is unnecessary and is being credited to Deposit Account 13-2755.

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 further processing in accordance with this decision on petition.

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

DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA, TN 37402-2289

MAILED

OCT 05 2010

OFFICE OF PETITIONS

In re Application of
Cheng Tong
Application No. 29/319,913
Filed: June 17, 2008
Attorney Docket No.: 09687-0100

ON PETITION

This is a decision on the petition, filed August 24, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed April 14, 2010. A Notice of Abandonment was mailed on July 29, 2010. On August 24, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $810; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and the $70 fee required by 37 CFR 1.137(d).

The terminal disclaimer filed August 24, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA CANADA

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Theressa Brotsky	:	
Application No. 29/320,146	:	DECISION ON PETITION
Filed: June 20, 2008	:	
Attorney Docket No. TB-01-08-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue fee on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010. A Notice of Abandonment was mailed August 2, 2010.

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

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 (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer and fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. **A terminal disclaimer cannot be signed by an attorney in representative capacity.**

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA CANADA

MAILED

FEB 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Theressa Brotsky	:	
Application No. 29/320,146	:	DECISION ON PETITION
Filed: June 20, 2008	:	
Attorney Docket No. TB-01-08-US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010. A Notice of Abandonment was mailed August 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $430.00 (previously submitted August 15, 2010), (2) the petition fee of $810.00 (previously submitted August 15, 2010); (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and fee of $70.00.

The request for a terminal disclaimer is accepted and has been made of record.

Further, the Power of Attorney and Change of Correspondence Address submitted with the instant petition is hereby accepted.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

In re Patent No. D605,918
Issue Date: November 24, 2009
Appl. No: 29/320,199
Filed: June 23, 2008
For: Correction of Inventorship

This is a decision on the petition filed November 18, 2009, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented filed is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Cathron C. Brooks/

Cathron C. Brooks
Supervisory Patent Examiner Art Unit 2911
Technology Center 2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JAY MOORE
914 BROOKSIDE CIRCLE
OGDEN, UT 84404

MAILED
AUG 05 2011
OFFICE OF PETITIONS

In re Application of :
Jay Moore :
Application No. 29/320,287 : ON PETITION
Filed: June 24, 2008 :
For: GOLF SWING TRAINER :

This is a decision on the petition, filed July 19, 2011, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue fee on or before May 26, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability mailed February 24, 2009. A Notice of Abandonment was mailed on June 19, 2009. On July 19, 2011, the present petition was filed.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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 petition lacks items (3) and (4) above.

In regard to item (3) - There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

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

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

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

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional

by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 27, 2009. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any responsible person(s) having

firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

In regard to item (4) - Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application and the terminal disclaimer must also apply to any patent granted on a continuing design application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. To be effective, the terminal disclaimer must include the fee of $140 ($70 if small entity) pursuant to 37 CFR 1.20(d) and be signed in accordance with 37 CFR 1.33(b). If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). For applicant's convenience, PTO/SB63 entitled "Terminal Disclaimer to Accompany Petition" is enclosed.

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[3]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Form PTO/SB/63

[3] 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

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P.O. Box 1450
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www.uspto.gov

JAY MOORE
914 BROOKSIDE CIRCLE
OGDEN, UT 84404

MAILED

SEP 12 2011

OFFICE OF PETITIONS

In re Application of
Jay Moore
Application No. 29/320,287
Filed: June 24, 2008
Attorney Docket No. None

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before May 26, 2009, as required by the Notice of Allowance and Fee(s) Due mailed February 24, 2009. A Notice of Abandonment was mailed on June 19, 2009. On July 19, 2011, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed August 5, 2011. On August 26, 2011, the present petition was filed.

The above-identified 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 Patent and Trademark Office).

On reconsideration, the petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $430 issue fee, (2) the petition fee of $810, (3) an adequate statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of February 24, 2011 is accepted as being unintentionally delayed.

The terminal disclaimer filed August 9, 2011 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer.

The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 17 2010

OFFICE OF PETITIONS

STEVEN L. SCHMID
1824 HICKORY TRACE DR.
FLEMING ISLAND, FL 32003

In re Application of :
Giuseppe De Longhi :
Application No. 29/320,625 : ON PETITION
Filed: June 30, 2008 :
Attorney Docket No.: GLP11 :

This is a decision in response to the renewed petition, filed September 22, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed April 14, 2009. A Notice of Abandonment was mailed on November 24, 2009. On June 4, 2010, a petition to revive was filed; however, the petition was dismissed in a decision mailed July 29, 2010. In response, on September 22, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer filed September 22, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to Technology Center AU 2914 for consideration of the amendment filed June 4, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Steven L. Schmid
1824 Hickory Trace Dr.
Fleming Island FL 32003

JUL 07 2011

In re Application of
DE LONGHI, GIUSEPPE :
Application No. 29/320,625 : **DECISION ON PETITION**
Filed: June 30, 2008 :
Attorney Docket No.: GLP11 :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on June 20, 2011.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay issue fee as required in the NOTICE OF ALLOWANCE AND FEE(S) DUE, mailed December 29, 2010 which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 13, 2011.

Petitioner has demonstrated that the Part B – Fee(s) Transmittal of Payment of Issue Fee, was submitted timely, but applied to wrong application number. The office discovered the discrepancy and applied the fee to the appropriate application.

In view of the above, the holding of abandonment is hereby withdrawn.

Telephone inquires relating to this matter may be directed to the undersigned at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MAILED
MAR 31 2011
OFFICE OF PETITIONS

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

In re Patent No. D605,185	:	
Issued: December 1, 2009	:	
Application No. 29/320,663	:	NOTICE
Filed: July 1, 2008	:	
Attorney Docket No.: 3156.273US01	:	

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

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

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

Status as a small entity has been changed.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55402-2100

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of :
Russell, et al. :
Application No. 29/320,666 :
Filed: July 1, 2008 :
Attorney Docket No. 3156.251US02 :

NOTICE

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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BURBANK CA 91505

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MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Perez :
Application No. 29/320,700 : ON PETITION
Filed: July 1, 2008 :
Attorney Docket No. FPG-001

This is a decision on the petition under 37 CFR 1.181 filed on January 27, 2011, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on December 2, 2010, after no response was received to the Notice of Allowability mailed September 1, 2010, which set a statutory period for reply of three-months from its mailing date. The Notice required corrected drawings to be filed. No response was received within the allowable period, and the application became abandoned on December 2, 2010. A Notice of Abandonment was mailed on December 20, 2010.

By the instant petition, petitioner maintains that examiner provided oral assurances that the application would proceed to issuance with revised application and drawings. Further, petitioner argues that the notice of September 1, 2010, did not conspicuously indicate that corrections to the drawings were required. As a result, petitioner states that petitioner overlooked the requirement for corrected drawings made by the Notice of Allowability.

Petitioner's argument is not persuasive. Petitioner is advised that the business of the Office is to be transacted in writing and all proceedings are based on the written record as it exists. Accordingly, the fact that the examiner may have misinformed petitioner has no bearing on petitioner's obligation to file a timely and proper response to the Notice of Allowance and Issue Fee Due. See 37 CFR 1.2.

Further, applicant is not a liberty to ignore the requirement for corrected drawings made in the Notice of Allowability. The Notice of Allowability made a requirement for corrected drawings and set a three-month statutory period for reply. Section 711.02 of the Manual of Patent Examining Procedure, citing 37 CFR 1.135(a) states, in pertinent part, that, "...an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b))." In this case, applicant failed to respond to the Notice of Allowability, and the application was properly held abandoned on December 2, 2010.

It is further noted that the fact that petitioner failed to notice the requirement for corrected drawings made by the Notice of Allowability has no bearing on whether the application was properly held abandoned.

The circumstances as set forth in the petition are more akin to unintentional delay in responding to the Office action. The appropriate remedy is most likely a petition under 37 CFR 1.137(b).

Petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BURBANK CA 91505

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AUG 02 2011
OFFICE OF PETITIONS

In re Application of :
Perez :
Application No. 29/320,700 : ON PETITION
Filed: July 1, 2008 :
Attorney Docket No. FPG-001

This is a decision on the petition under 37 CFR §1.137(b), filed July 20, 2011, in 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)."**

The application became abandoned on December 2, 2010, after no response was received to the Notice of Allowability mailed September 1, 2010, which set a statutory period for reply of three-months from its mailing date. The Notice required corrected drawings to be filed. No response was received within the allowable period, and the application became abandoned on December 2, 2010. A Notice of Abandonment was mailed on December 20, 2010.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (4) above[1].

As to item (4), the terminal disclaimer was not found with the petition papers. The subject application is a design application, therefore; a terminal disclaimer is required in order to revive the application. Any renewed petition filed must be accompanied by the completed terminal disclaimer form, which is enclosed for petitioner's convenience. Pursuant to 37 CFR 1.137(d), the terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted from this application that is equivalent to the period of abandonment of the application.

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

By mail: Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/63

[1] It is noted that on June 1, 2011, the undersigned called Ms. Judy Chung and left a voice mail message informing Mrs. Chung that a terminal disclaimer was required to be filed with the instant petition. The undersigned requested that petitioners file a terminal disclaimer to supplement the instant petition. To date, no response has been received. Accordingly, the petition is being dismissed because a terminal disclaimer is required, but was not filed.

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AUG 18 2011

OFFICE OF PETITIONS

In re Application of :
Perez :
Application No. 29/320,700 : ON PETITION
Filed: July 1, 2008 :
Attorney Docket No. FPG-001

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

The petition is **granted**.

The application became abandoned on December 2, 2010, after no response was received to the Notice of Allowability mailed September 1, 2010, which set a statutory period for reply of three-months from its mailing date. The Notice required corrected drawings to be filed. No response was received within the allowable period, and the application became abandoned on December 2, 2010. A Notice of Abandonment was mailed on December 20, 2010.

The corrected drawings were received on July 20, 2011.

The terminal disclaimer filed August 9, 2011, is noted.

The application 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

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SUITE 300
ALEXANDRIA VA 22314

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AUG 15 2011

OFFICE OF PETITIONS

In re Application of :
Chin-Wei Ni :
Application No. 29/320,911 : ON PETITION
Filed: July 8, 2008 :
Attorney Docket No. **4647-085DES**

This is a decision on the petition under 37 CFR 1.137(b) filed August 2, 2011.

The petition is GRANTED.

This application became abandoned for failure to timely remit the issue fee of $860.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed December 3, 2008. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on March 4, 2009. A Notice of Abandonment was mailed on March 31, 2009.

The issue fee was received on august 2, 2011.

The terminal disclaimer and fee were received on August 2, 2011.

While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file will be 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

cc:
Chin-Wei Ni
8F No. 3-1 Yuanqu St.
Nangang District
Taipei Taiwan R.O.C.

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

MAILED
OCT 06 2010
OFFICE OF PETITIONS

In re Application of	:	
David Chipperfield	:	
Application No. 29/320,927	:	DECISION ON PETITION
Filed: July 8, 2008	:	
Attorney Docket No. 27392/44083	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010. A Notice of Abandonment was mailed August 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $860.00, (2) the petition fee of $1.620.00; (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and fee of $140.00.

The request for a terminal disclaimer is accepted and has been made of record.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED

OCT 18 2011

OFFICE OF PETITIONS

In re Application of :
William R. Groves, et al. :
Application No. 29/321,399 : ON PETITION
Filed: July 16, 2008 :
Attorney Docket No. CS34391RS :

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 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 submit the issue fee in reply to the Notice of Allowability, mailed June 15, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 16, 2011. The Notice of Abandonment was mailed September 27, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (4).

All design application petitions must be accompanied with a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) as required by 37 CFR 1.137(d). A copy of the terminal disclaimer form PTO/SB/63 is enclosed for your convenience.

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

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

By 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 Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: PTO/SB/63 (Terminal Disclaimer)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
DEC 07 2011
OFFICE OF PETITIONS

In re Application of :
William R. Groves, et al. :
Application No. 29/321,399 : DECISION ON PETITION
Filed: July 16, 2008 :
Attorney Docket No. CS34391RS :

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

The petition is **GRANTED.**

The application became abandoned for failure to timely pay the issue fee on or before September 15, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed June 15, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 16, 2011. A Notice of Abandonment was mailed on September 27, 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 $860 issue fee, (2) the petition fee of $860, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUSCH BLACKWELL SANDERS LLP
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS MO 63105-3441

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Pier Giorgio Tedioli :
Application No. 29/321,625 : ON PETITION
Filed: July 21, 2008 :
Attorney Docket No.: 443603.16 :

This is a decision on the renewed petition filed August 12, 2010 under 37 CFR 1.181 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 March 4, 2010 and a Notice of Abandonment was mailed March 22, 2010 for the applicant's failure to file corrected drawings in response to the Notice of Allowability mailed December 3, 2009.

Petitioner asserts that corrected drawings were not required based on revisions made to the drawings prior to the mailing of the Notice of Allowability and based on a telephone conversation, after the abandonment of the application, with the Examiner wherein the Examiner of Record "confirmed that nothing further needed to be done about the drawings and the abandonment was issued in error". In view thereof, no drawings were filed in response to the Notice.

Per confirmation with the Examiner of Record, in view of the drawings filed November 30, 2009, the Notice of Allowability mailed December 3, 2009 should not have required Corrected Drawings and as a result, the Notice of Abandonment mailed March 22, 2010 was sent in error.

In view thereof, Corrected Drawings are not required, the holding of abandonment was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

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
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

DYKEMA GOSSETT PLLC
10 S. WACKER DIR., STE. 2300
CHICAGO IL 60606

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Patent No. D639203	:	
Issue Date: June 7, 2011	:	
Application No. 29/321,784	:	NOTICE
Filed: July 23, 2008	:	
Attorney Docket No. 065487-0004	:	

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STOEL RIVES LLP
201 South Main Street, Suite 1100
Salt Lake City, Utah 84111

In re Patent No. D597,037
Issue Date: July 28, 2009
Appl. No: 29/321794
Filed: July 23,2008
For: Correction of Inventorship

This is a decision on the petition filed September 29, 2010, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented filed is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Stella M. Reid/

Stella M. Reid
Supervisory Patent Examiner Art Unit 2912
Technology Center 2900

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. D597037
Patented: July 28, 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:

Fred P. Lampropoulos, Salt Lake City, UT (US);
Jim Mottola, Salt Lake City, UT (US);
Steve Taylor, Salt Lake City, UT (US);
Thomas Stout, Salt Lake City, UT (US);
Blaine Johnson, Riverton, UT (US).

Stella M. Reid
Supervisory Patent Examiner
Art Unit 2912
Technology Center 2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MRS. JANET LEE
1747 CHADWICKE CIRCLE
NAPERVILLE, IL 60540

MAILED
AUG 19 2010
OFFICE OF PETITIONS

In re Application of :
Paul Wood Yik Lam :
Application No. 29/322,130 : ON PETITION
Filed: July 30, 2008 :
Attorney Docket No.: None :

This is a decision in response to the petition filed June 21, 2010, which is treated as a petition under 37 CFR 1.8(b) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **dismissed**.

The application was held abandoned for a failure to timely respond to a Notice of Non-Compliant Amendment mailed December 5, 2008, which set a one-month period for response. Accordingly, a reply was due on or before January 5, 2009.

Petitioner argues that a timely response was filed and request that the abandonment be withdrawn. Petitioner explains that a revised amendment was filed using a Certificate of Mailing under 37 CFR 1.8 and was mailed to the USPTO via the Hong Kong Post. A copy of Mailing Receipt No. EE79 7035 653H K, showing a delivery date of December 17, 2008, has been provided. It is noted that a copy of the revised amendment was not provided by petitioner.

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 does not satisfy item (2) above. Accordingly, the abandonment cannot be granted at this time.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[1]

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

NOV 17 2010

OFFICE OF PETITIONS

MRS. JANET LEE
1747 CHADWICKE CIRCLE
NAPERVILLE, IL 60540

In re Application of :
Paul Wood Yik Lam :
Application No. 29/322,130 : ON PETITION
Filed: July 30, 2008 :
Attorney Docket No.: None :

This is a decision in response to the renewed petition filed September 1, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that the application was held abandoned for a failure to timely respond to a Notice of Non-Compliant Amendment (Notice) mailed December 5, 2008, which set a one-month period for response. On June 21, 2010, a petition to withdraw the abandonment under the provisions of 37 CFR 1.8 was filed; however, the petition was dismissed in a decision mailed August 18, 2010. In response on September 1, 2010, the present petition was filed, along with a copy of the revised amendment shown to have been filed on December 17, 2008.

On reconsideration, 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 December 5, 2008 Notice is hereby withdrawn and the application restored to pending status.

The copy of the reply received with the petition on September 1, 2010 will be accepted in place of the reply shown to have been filed on December 17, 2008.

This application is being referred to Technology Center AU 2913 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rebecca Currie
8960 Nesbit Lakes Drive
Alpharetta GA 30022

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Rebecca Currie :
Application No. 29/322,391 : DECISION ON PETITION
Filed: August 4, 2008 :
Attorney Docket No. 001621.128490 :

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

This application became abandoned for failure to timely pay the issue fees on or before November 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 4, 2010, which sets a statutory period for reply of three (3) months. Accordingly, the date of abandonment of this application is November 5, 2010.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $430, (2) the petition fee of $810; and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 to be processed 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
www.uspto.gov

SHEMENE C. PITTS
7077 MCCLEAN BLVD
BALTIMORE MD 21234

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of :
Pitts :
Application No. 29/322,430 : DECISION ON PETITION
Filed: August 5, 2008 :
Attorney Docket No. 4597-2 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit corrected drawings on or before December 3, 2009, as required by the Notice of Allowability, mailed September 3 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 4, 2009. A Notice of Abandonment was mailed on December 17, 2009. Petitions filed under 37 CFR 1.181 were dismissed on March 26, 2010 and June 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Bryan Cave, LLP
Suite 2200
Two North Central Avenue
Phoenix AZ 85004-4406

MAILED

OCT 11 2011

OFFICE OF PETITIONS

In re Application of :
Mann :
Application No. 29/322,474 :
In re Patent No. D616,653 : DECISION ON PETITION
Filing Date: August 5, 2008 : PURSUANT TO 37 C.F.R.
Issue Date: June 1, 2010 : § 3.81(B)
Attorney Docket Number: 0224441 :
Title: SWING CHAIR :

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed August 10, 2011, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED** to the extent that a Certificate of Correction will be issued, correcting the Assignee information to "Tube Plastics Limited, Stourport-On-Severn, Worcestershire (GB)."

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner has requested that the name of the Assignee should be changed from "TP ACTIVITY TOYS LIMITED, STOURPORT-ON-SEVERN, WORCESTERSHIRE (GB)" to "Tube Plastics Limited, Stourport-On-Severn, Worcestershire (GB)."

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 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.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on January 6, 2010, listing Tube Plastics Limited of Stourport-On-Severn, Worcestershire, United Kingdom as the Assignee.

Payment of the required $100 certificate of correction fee and the $130 processing fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, correcting the Assignee information to "Tube Plastics Limited, Stourport-On-Severn, Worcestershire (GB)."

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARDENT LAW GROUP
2600 MICHELSON, SUITE 1700
IRVINE, CA 92612

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of :
Ninthala POUIPHANVONGXAY :
Application No. 29/322,633 : DECISION ON PETITION
Filed: August 7, 2008 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **bkkt_14433.01_ninthala** :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed December 29, 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) were obtained. Accordingly, the application became abandoned on March 1, 2009.

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2915 for appropriate action by the Examiner in the normal course of business on the reply received July 13, 2010.

Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 2/1/2012

TO SPE OF : ART UNIT 2912

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/322665 Patent No.: D595561 S

CofC mailroom date: 9/27/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: _____

_____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

/Stella Reid/ 2912

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

CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford CT 06103

MAILED
MAR 31 2011
OFFICE OF PETITIONS

In re Application of :
Joseph Frederick Malcarne :
Application No.: 29/322708 : ON PETITION
Filing or 371(c) Date: 08/11/2008 :
Title of Invention: :
FISHING ROD TIP :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a), filed February 4, 2011. The petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Issue Fee Due, mailed July 16, 2009. The Office action set a non-extendable three (3) month period for reply. No complete and proper reply having been received, the application became abandoned on October 17, 2009.

Petitioner files the present petition and provide that the oath/declaration filed with the application on August 11, 2008 designated attorneys associated with customer number 23413 and included a (typed) correspondence address which was not completely accurate. Office records confirm that the Notice of Allowance and Issue Fee Due was mailed to the inaccurate correspondence address.

The applicable Rule, 37 CFR 1.33(a), and the MPEP 601.03 both state that "[i]f more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address."

In this instance, the Office should have selected the address associated with the customer number over the typed correspondence address. Office records have been corrected to reflect the address associated with the customer number.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The Terminal Disclaimer has not been entered.

The petition and Terminal Disclaimer fees have been refunded to Applicant's credit card.

The application will be referred to the Office of Data Management ("ODM") for processing into a patent.

Telephone inquiries concerning this Decision only 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

CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford CT 06103

MAILED

MAR 31 2011

OFFICE OF PETITIONS

In re Application of :
Frederick Joseph Malcarne :
Application No.: 29/322709 : ON PETITION
Filing or 371(c) Date: 08/11/2008 :
Title of Invention: :
FISHING ROD TIP ORIFICE :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a), filed February 4, 2011. The petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Issue Fee Due, mailed July 16, 2009. The Office action set a non-extendable three (3) month period for reply. No complete and proper reply having been received, the application became abandoned on October 17, 2009.

Petitioner files the present petition and provide that the oath/declaration filed with the application on August 11, 2008 designated attorneys associated with customer number 23413 and included a (typed) correspondence address which was not completely accurate. Office records confirm that the Notice of Allowance and Issue Fee Due was mailed to the inaccurate correspondence address.

The applicable Rule, 37 CFR 1.33(a), and the MPEP 601.03 both state that "[i]f more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address."

In this instance, the Office should have selected the address associated with the customer number over the typed correspondence address. Office records have been corrected to reflect the address associated with the customer number.

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The Terminal Disclaimer has not been entered.

The petition and Terminal Disclaimer fees have been refunded to Applicant's credit card.

The application will be referred to the Office of Data Management ("ODM") for processing into a patent.

Telephone inquiries concerning this Decision only 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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

MAILED
JUL 13 2011
OFFICE OF PETITIONS

In re Patent No. D594704 :
Issued: June 23, 2009 :
Application No. 29/322,906 : ON PETITION
Filed: August 14, 2008 :
Attorney Docket No. 066440-0014 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 14, 2011.

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

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

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

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

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Wang et al. :
Application No. 29/323,459 : DECISION ON PETITION
Filed: August 26, 2008 :
Attorney Docket No. 5900/0164PUS1 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Provisional Application (Notice) mailed September 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 November 6, 2008. A Notice of Abandonment was mailed May 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form the surcharge fee of $65.00, the Basic filing fee of $110.00, the $50.00 Search fee, and the $70.00 Examination fee (previously paid on April 14, 2010) (2) the petition fee of $810.00 (previously paid on April 14, 2010), (3) an adequate statement of unintentional delay, and (4) a Terminal Disclaimer with the accompanying $70.00 fee.

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.

The request for a terminal disclaimer is accepted and has been made 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: Muncy, Geissler, Olds & Lowe, PLLC
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
Alexandria, VA 22313-1450
www.uspto.gov

ADE & COMPANY INC.
2157 HENDERSON HIGHWAY
WINNIPEG MB R2G1P-9 CA CANADA

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
Alan Peter Barkman :
Application No. 29/323,622 :
Filed: August 28, 2008 :
Attorney Docket No. 82585-762 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 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, mailed August 18, 2009 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 19, 2009.

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

A terminal disclaimer and the $140 terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted the application equivalent to the period of abandonment of the application, and must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121 or 365(c) to the application for which revival is sought.

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) 272-1642.

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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ADE & COMPANY, INC.
2157 HENDERSON HIGHWAY
WINNIPEG, MB R2G 1P-9 CA
CANADA

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Alan Peter Barkman :
Application No. 29/323,622 : DECISION ON PETITION
Filed: August 28, 2008 :
Attorney Docket No. 82585-762 :

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

The application became abandoned for failure to reply in a timely manner to the Notice, mailed August 18, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 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, (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

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

The terminal disclaimer is accepted and has been made 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 2914 for appropriate action by the Examiner in the normal course of business on the reply received August 26, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
AUG 31 2011
OFFICE OF PETITIONS

In re Application of	:	
Simon Benjamin Stevens	:	
Application No. 29/323718	:	
Filing or 371(c) Date: 08/29/2008	:	ON PETITION
Attorney Docket Number:	:	
NPS-PT095	:	

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

SEP 14 2010

OFFICE OF PETITIONS

Constellation Law Group, PLLC
P.O. Box 220
Tracyton WA 98393

In re Application of Jill Cartwright :
Application No. 29/323,851 : Decision on Petition
Filing Date: September 2, 2008 :
Attorney Docket No. GG1-0001-US :

This is a decision on the petition filed April 13, 2010, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

A Notice of Allowability was mailed December 11, 2009. The Notice of Allowability set a shortened statutory period for reply of three (3) months. The Notice required the submission of corrected drawings.

Petitioner did not file a reply to the Notice of Allowability. As a result, the application became abandoned on March 12, 2010. The Office mailed a Notice of Abandonment on March 26, 2010.

The petition states the Notice of Allowability indicated "Applicant must submit replacement drawings to correct deficiencies 'required by the attached Examiner's Amendment/Comment,'" and that the attached Examiner's Amendment/Comment failed to identify any deficiencies in the drawings.

35 U.S.C. 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, *the application goes abandoned as a matter of law*. An Office action in the form of a Notice of Allowability was mailed December 11, 2009. The Notice provided applicants with three months to file a response. Applicant did not file a response to the Notice of Allowability within 3 months. Therefore, as a matter of law, the application is abandoned.

The statute does not distinguish "correct" Office actions from "incorrect" Office actions. Even if a Notice or Office action is incorrect, a reply must be filed. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Allowability. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the original drawings. Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing prior to the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(a). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($810 for a small entity), 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 a terminal disclaimer.

A copy of a PDF "fillable" petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0061.pdf.

A copy of a PDF "fillable" terminal disclaimer form can be found at: http://www.uspto.gov/web/forms/sb0063.pdf.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

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

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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

Constellation Law Group, PLLC
P.O. Box 220
Tracyton WA 98393

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of Jill Cartwright :
Application No. 29/323,851 : Decision on Petition
Filing Date: September 2, 2008 :
Attorney Docket No. GG1-0001-US :

This is a decision on the "Petition to Revive Based on Unintentional Abandonment Under 37 CFR 1.137(b)" filed September 28, 2010, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. 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)."

Background

A Notice of Allowability was mailed December 11, 2009. The Notice of Allowability set a shortened statutory period for reply of three (3) months. The Notice required the submission of corrected drawings. Petitioner did not file a reply to the Notice of Allowability. As a result, the application became abandoned on March 12, 2010. The Office mailed a Notice of Abandonment on March 26, 2010.

Petitioner filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment on April 13, 2010. The Office issued a decision dismissing the petition on September 14, 2010. The decision stated Petitioner might wish to file a petition to revive. The decision also stated, with emphasis added,

> A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (already submitted), the required petition fee ($810 for a small entity), 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 a terminal disclaimer.*

Discussion

Pursuant to 37 CFR 1.137(b)(1), a petition to revive under 37 CFR 1.137 filed in a design application must include a terminal disclaimer and a required fee ($70 for a small entity). Neither a terminal disclaimer nor the required terminal disclaimer fee has been filed. Therefore, the petition must be dismissed.

Any request for reconsideration should include a terminal disclaimer and the required $70 fee.

A grantable petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the instant petition includes such a statement, the statement should also appear in any request for reconsideration. In other words, any request for reconsideration should include the following statement, or a similar statement: "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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MAILED

MAR 18 2011

OFFICE OF PETITIONS

Constellation Law Group, PLLC
P.O. Box 220
Tracyton WA 98393

In re Application of Jill Cartwright :
Application No. 29/323,851 : Decision on Petition
Filing Date: September 2, 2008 :
Attorney Docket No. GG1-0001-US :

This is a decision on renewed petition under 37 CFR 1.137(b) filed January 6, 2011.

The petition is **granted**.

A Notice of Allowability was mailed December 11, 2009. The Notice of Allowability set a shortened statutory period for reply of three (3) months. The Notice required the submission of corrected drawings. Petitioner did not file a reply to the Notice of Allowability. As a result, the application became abandoned on March 12, 2010. The Office mailed a Notice of Abandonment on March 26, 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.

As to item (1), the requirement for a reply is satisfied by Petitioner previously demonstrating the requirement for corrected drawings was erroneous.

As to item (2), the petition fee of $810 was filed with a previous petition under 37 CFR 1.137(b) on September 28, 2010.

As to item (3), the petition states 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

As to item (4), the petition includes a terminal disclaimer.

In view of the prior discussion, the requirements of 37 CFR 1.137(b) have been satisfied and the petition is granted.

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
www.uspto.gov

Lu & Associates, P.C.
P.O. Box 1380
HAVERTOWN PA 19083

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of :
Chen :
Application No. 29/323,992 : ON PETITION
Filed: September 4, 2008 :
Attorney Docket No. YL-I-21-22A :

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

The application became abandoned February 20, 2010 for failure to timely submit a proper reply to the Notice of Allowability (Notice), mailed November 19, 2009. The Notice set a set a three month statutory period of time for reply. Notice of Abandonment was mailed March 4, 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 fails to satisfy requirement (4) set forth above. The instant petition lacks the required terminal disclaimer (and fee) as required per 37 CFR 1.137(d). Any renewed petition must be accompanied by the required terminal disclaimer (and fee).

In view thereof, 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 37CFR 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) 272-3205.

/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

Lu & Associates, P.C.
P.O. Box 1380
HAVERTOWN PA 19083

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of :
Chen :
Application No. 29/323,992 : ON PETITION
Filed: September 4, 2008 :
Attorney Docket No. YL-I-21-22A :

The application has been referred to the Office of Petitions in connection with the terminal disclaimer submitted April 21, 2011. The Office of Petitions in this instance elects to treat the submission as a request for reconsideration of the decision on petition mailed March 11, 2011. Petitioner is advised that any future requests for reconsideration of a decision on petition MUST be accompanied by a written request for reconsideration directed to the Office of Petitions.

The application became abandoned February 20, 2010 for failure to timely submit a proper reply to the Notice of Allowability (Notice), mailed November 19, 2009. The Notice set a set a three month statutory period of time for reply. Notice of Abandonment was mailed March 4, 2010. A petition under 37 CFR 1.137(b) was filed February 8, 2011 and dismissed March 11, 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.

This application is being forwarded to the Office of Data Management 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
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MAILED

JUN 13 2011

OFFICE OF PETITIONS

COHEN & GRIGSBY PC
625 LIBERTY AVENUE
PITTSBURGH PA 15222-3152

In re
Peter Roesler
Application No. 29/324,288
Filed: September 10, 2008
Patent No. D612,152
Issued: March 23, 2010

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed April 6, 2011.

The fee deficiency submission under 37 CFR 1.28 of $430 for the issue fee is hereby accepted.

Deposit Account No. 03-2026 has been charged $430, as authorized.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of :
Julian Morton :
Application No. 29/324,315 : ON PETITION
Filed: September 10, 2008 :
Attorney Docket No.: 048285.013 :

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

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely submit corrected formal drawings on or before December 14, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed September 14. 2010. Accordingly, the date of abandonment of this application is December 15, 2010. A Notice of Abandonment was mailed on December 30, 2010. On June 23, 2011, the present petition was filed.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Dale Lischer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

A grantable petition under 37 CFR 1.137(b)[1] 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

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

The petition does not comply with item (4).

It is noted that a terminal disclaimer was filed on June 23, 2011, along with the requisite fee; however, the terminal disclaimer is not acceptable, as it is not signed by an attorney or agent of record. To be effective, the terminal disclaimer must be signed in accordance with 37 CFR 1.321(b) which reads:

> "An applicant or assignee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the grantee and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must:
>
> (1) Be signed:
>
> (i) By the applicant, or
>
> (ii) If there is an assignee of record of an undivided part interest, by the applicant and such assignee, or
>
> (iii) If there is an assignee of record of the entire interest, by such assignee, or
>
> (iv) By an attorney or agent of record;"

Since the terminal disclaimer is not properly signed, the petition cannot be granted at this time.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] 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

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

MAILED

JAN 26 2012

OFFICE OF PETITIONS

In re Application of :
Julian Morton :
Application No. 29/324,315 : ON PETITION
Filed: September 10, 2008 :
Attorney Docket No.: 048285.013 :

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

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed September 14, 2010. A Notice of Abandonment was mailed on December 30, 2010. On June 23, 2011, a petition under the provisions of 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed July 29, 2011 because the terminal disclaimer was not properly signed. In response, on December 12, 2011, the present petition was filed, including a replacement terminal disclaimer and the fee required for a 3-month petition for extension of time.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $810; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and the $70 fee required by 37 CFR 1.137(d).

The terminal disclaimer filed December 22, 2011 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Option Group Inc - Harry Tse
207 South 6th Avenue
La Puente CA 91746

MAILED

AUG 2 6 2010

OFFICE OF PETITIONS

In re Application of :
Tak Chi Wong :
Application No. 29/324,685 : DECISION ON PETITION
Filed: September 17, 2008 :
Attorney Docket No. OPTION GROUP :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before June 24, 2009, as required by the Notice of Allowance and Fee(s) Due mailed March 24, 2009. Accordingly, the date of abandonment of this application is June 25, 2009. A Notice of Abandonment was mailed on July 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee of $430, (2) the petition fee of $810, (3) a proper statement of unintentional delay and, (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the issue fee is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 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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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Application of :
Kalbach :
Application No. 29/324,930 : DECISION ON PETITION
Filed: September 23, 2008 :
Attorney Docket No. 1197-9205US :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee on or before February 5, 2010, as required by the Notice of Allowance, mailed November 5, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 6, 2010. A Notice of Abandonment was mailed on March 1, 2010. A petition filed March 3, 2010 under 37 CFR 1.137(b) was dismissed on June 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 the $430 issue fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

Charlema Grant
Petitions Attorney
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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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Tong-Kurk T. KIM et al. :
Application No. 29/325,219 : DECISION ON PETITION
Filed: September 26, 2008 :
Attorney Docket No. **FC06892US01** :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file corrected drawings on or before June 09, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 09, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required drawings and corrected Application Data Sheet, (2) the petition fee of $1620, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely file corrected drawings as required by the Notice of March 09, 2009 is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 further processing in accordance with this decision on petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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MAILED

OCT 28 2010

OFFICE OF PETITIONS

THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

In re Application of	:	
Barry Messner	:	
Application No. 29/325,332	:	DECISION ON PETITION
Filed: September 29, 2008	:	
Atty. Docket No. MS08020USDP2	:	

This is a decision on the petition, filed May 21, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application was held abandoned for failure to submit formal drawings on or before February 1, 2010, as required by the Notice of Allowability, mailed October 30, 2009. A Notice of Abandonment was mailed February 25, 2010.

The petitioner states that a "Supplemental Notice of Allowability requesting corrected drawings was mailed from the USPTO on February 18, 2010, setting forth a deadline for response of May 18, 2010." Petitioner should note that the supplemental Notice was mailed in response to the IDS filed January 29, 2010, and any requirement for drawing corrections noted thereon was merely a reflection of the lack of receipt of the corrected drawings by the Office. Since corrected drawings required by the Notice of Allowability mailed on October 30, 2009, were not received by February 1, 2010, the application became abandoned, by law, on February 2, 2010. This Supplemental Notice of Allowability was mailed after the application had already gone abandoned. Thus, any deadline set forth therein was inapplicable as the application was already in an abandoned status.

In view of the above, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an

"unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,640 petition fee.

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

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

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

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

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

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

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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THE ECLIPSE GROUP LLP
6345 Balboa Blvd., Suite 325
Encino CA 91316

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Barry Messner	:	
Application No. 29/325,332	:	DECISION ON PETITION
Filed: September 29, 2008	:	
Attorney Docket No. MS08020USDP2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed October 30, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on February 2, 2010. The Notice of Abandonment was mailed February 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 replacement drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

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

This application is being referred to the Office of Data Management for appropriate action on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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YOUNG BASILE
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Selina et al.	:	
Application No. 29/325,383	:	DECISION ON PETITION
Filed: September 30, 2008	:	
Attorney Docket No. LTC-137-A-DESIGN	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before April15, 2010, as required by the Notice of Allowability mailed January 15, 2010. Accordingly, the date of abandonment of this application is April 16, 2010. A Notice of Abandonment was mailed May 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 (previously submitted June 15, 2010); (2) the petition fee of $810.00 (previously paid on June 15, 2010); (3) a proper statement of unintentional delay and (4) a Terminal Disclaimer with the accompanying $70.00 fee.

The request for a terminal disclaimer is accepted and has been made of record.

Additionally, petitioner has submitted an unnecessary duplicate petition fee of $810.00. This fee will be refunded to petitioner's deposit account 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 Data Management for processing into a patent and review of the Corrected Drawings submitted on June 15, 2010.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Application of :
Eric Stoddard :
Application No. 29/325,508 : ON PETITION
Filed: October 1, 2008 :
Attorney Docket No. **MS08014USDP2** :

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Continued Prosecution Application (CPA) under 37 CFR 1.53(d); (2) the petition fee of $810; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record.

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 the CPA.

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

This application is being referred to Technology Center AU 2913 for processing of the CPA.

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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DR. BANGER SHIA
PATENT OFFICE OF BANG SHIA
102 LINDENCREST CT
SUGAR LAND TX 77479-5201

MAILED
JAN 3 1 2011
OFFICE OF PETITIONS

In re Application of :
LAW :
Application No. 29/325,848 : ON PETITION
Filed: October 7, 2008 :
Attorney Docket No. SW-97-1591 (SW-154) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 29, 2010.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 24, 2009, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 25, 2009. A Notice of Abandonment was mailed January 22, 2010.

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

In respect to item (4): A terminal disclaimer and the $140 ($70 if small entity) terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted on the application equivalent to the period of abandonment of the application, and

must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.
If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(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 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

DR. BANGER SHIA
PATENT OFFICE OF BANG SHIA
102 LINDENCREST CT
SUGAR LAND TX 77479-5201

MAILED
MAR 14 2011
OFFICE OF PETITIONS

In re Application of :
LAW :
Application No. 29/325,848 : ON PETITION
Filed: October 7, 2008 :
Attorney Docket No. SW-97-1591 (SW-154) :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2011.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 24, 2009, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 25, 2009. A Notice of Abandonment was mailed January 22, 2010.

The renewed 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; (3) the required statement of unintentional delay; and (4) the required terminal disclaimer (and fee set forth in 37 CFR 1.20(d) required by 37 CFR 1.137(d).

The Terminal Disclaimer filed February 20, 2011, is acknowledged and accepted.

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

This application is being referred to Technology Center AU 2914 for appropriate action by the Examiner in the normal course of business on the reply.

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

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United States Patent and Trademark Office
P.O. Box 1450
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FACTOR & LAKE, LTD
1327 W. WASHINGTON BLVD.
SUITE 5G/H
CHICAGO, IL 60607

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
Michael Lammel, et al. :
Application No. 29/325,911 : ON PETITION
Filed: October 8, 2008 :
Attorney Docket No.: OST-081190DES :

This is a decision in response to the renewed petition, filed August 3, 2010, to revive the above-identified design 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 fee on or before May 17, 2010. A Notice of Abandonment was mailed on June 4, 2010. On June 4, 2010, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed July 28, 2010.

The petition, as supplemented on August 3, 2010, satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $860 issue fee, (2) the petition fee of $1,620, (3) an adequate statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of May 17, 2010 is accepted as being unintentionally delayed.

The terminal disclaimer filed August 3, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEAN W. GOODWIN
222 PARKSIDE PLACE
602-12 AVENUE S.W.
CALGARY AB T2R 1J3 CA CANADA

MAILED
OCT 14 2011
OFFICE OF PETITIONS

In re Application of	:	
Christopher Henry Becker	:	
Application No. 29/326,069	:	ON PETITION
Filed: October 10, 2008	:	
Attorney Docket No. 2623-003 USD	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee in a timely manner in reply to the Notice of Allowability, mailed June 13, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 14, 2011. The Notice of Abandonment was mailed September 26, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the issue fee of $430; (2) the petition fee of $810; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

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

The application file is being referred to the Office Data Management for issuing into a Patent.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed September 8, 2010

Patent No. :D615266
Inventor :OVAL SINK MAT
Patent Issued :May 4, 2010
Title :OVAL SINK MAT

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.

As a result of applicants failure to fully comply with 35 U.S.C. 119 in that conditional requirements were not met concerning the inclusion of Foreign Application Priority Data; approval is herewith unwarranted unless a petition is granted. Applicant's attention is directed to MPEP 201.14(a), 37 CFR 1.17(i). Any petition should be directed to the attention of the Assistant Commissioner for patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box 1450
Alexandria, VA 22313-1450

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

EFS web uspto.gov/ebc/index.html
(must be registered as an e-filer to submit responses)
Technical Support 1-866-217-9197

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Michelle C. Kim, Esq.
333 S. Grand Ave.,m STE 2300
Los Angeles, CA 90071

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of
Carlow et al.
Application No. 29/326,498
Filed: October 20, 2008
Attorney Docket No. 092847.000007

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 12, 2010 to revive the above-identified design application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before October 29, 2009, as required by the Notice of Allowability for A Design Application, mailed July 29, 2009. Accordingly, the date of abandonment of this application is October 30, 2009. A Notice of Abandonment was mailed November 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form replacement drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee of $70 as required by 37 CFR 1.137(d). Accordingly, the failure to timely submit replacement drawings as required by the Notice of Allowability is accepted as being unintentionally delayed.

The terminal disclaimer filed March 12, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON DC 20005-3315

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Patent No. D611146
Issue Date: March 2, 2010
Application No. 29/326,735
Filed: October 23, 2008
Attorney Docket Number: 10988.0025

ON PETITION

This is a decision on the petition, filed December 13, 2010, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about March 2, 2010, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioners state that the Letters Patent was received from the USPTO and was subsequently lost. The petition fee in the amount of $400.00 has been applied.

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

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

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person (Fax – (571) 270-9764)
Kimberly Terrell (Fax – (571) 270-9958)

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Gabriel Duarte
434 S. Hill St.
Orange CA 92869-4918

MAILED
DEC 21 2010
OFFICE OF PETITIONS

In re Application of	:	
Gabriel Duarte	:	
Application No. 29/327116	:	DECISION ON
Filing or 371(c) Date: 10/30/2008	:	PETITION
Title of Invention:	:	
TAPE HANDLE AND DISPENSER	:	
COMBINATION	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 7, 2010, and supplemented December 6, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed March 5, 2009. The Notice set a non-extendable three (3) month period for reply. No complete and proper reply having been received, the application became abandoned on June 6, 2009. A Notice of Abandonment was mailed June 29, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee; (2) the petition fee, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The Office has "closed" the image of the document marked "Personal and Confidential" in the application that was filed with the petition on September 7, 2010, so that no information about

the recorded document will appear when someone searches for that application or patent number in the electronic file.

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

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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AUG 26 2010

OFFICE OF PETITIONS

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE OH 43023

In re Application of :
Lawrence J. Grubka et al :
Application No. 29/327,214 : ON PETITION
Filed: October 31, 2008 :
Attorney Docket No. 26530 :

This is a corrected decision on the petition under 37 CFR 1.137(b), filed January 18, 2010 and resubmitted on August 24, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Continued Prosecution Application (CPA) under 37 CFR 1.53(d); (2) the petition fee of $1,620.00; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record.

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 the CPA.

As to the decision mailed May 5, 2010:

The decision mailed May 5, 2010, is hereby **vacated** because applicant filed an RCE (Request For Continued Examination) on January 18, 2010, which is an improper filing for a design application. Therefore, the petition filed January 18, 2010, was improperly granted on May 5, 2010. The RCE fee of $810.00 is being credited to petitioner's deposit account as authorization was provided.

Petitioner is advised that the issue fee paid on August 24, 2010, in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed August 24, 2010.

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

This application is being referred to Technology Center AU 2914 for processing of the CPA filed August 24, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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JAN 04 2011

OFFICE OF PETITIONS

In re Patent No. D628,619 :
Issue Date: December 7, 2010 :
Application No. 29/327,333 : ON PETITION
Filed: November 4, 2008 :
Attorney Docket No. **20081481-US-DP** :

This is a decision on the petition filed December 13, 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**.

Petitioner states that the correct assignee's name is ""XEROX CORPORATION, Norwalk, CT (US)"" and that the incorrect assignee's name was 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.

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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

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APR 12 2011

OFFICE OF PETITIONS

In re Application of :
Donald A. Brown et al. :
Application No. 29/327,349 : DECISION ON PETITION
Filed: November 04, 2008 :
Attorney Docket No. **20081488-US-DP** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 09, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue fees and to submit corrected formal drawings on or before November 09, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 09, 2010. Accordingly, the date of abandonment of this application is November 10, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (4) above in that both a Terminal Disclaimer and the fee as set forth in 37 CFR 1.20(d) have not been filed. A copy of the form PTO/SB/63 is included for petitioner's use.

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 $130 extension of time fee submitted with the petition on December 09, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

By Mail:
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Alexandria, VA 22313-1450

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: PTO/SB/63

PTO/SB/63 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO ACCOMPANY PETITION	Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the above-identified application is a utility or plant application, the lesser of: (a) the period of abandonment of the application; or (b) the period extending beyond twenty years from the date on which the above-identified application was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 1995, or a design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.
2. ☐ The undersigned is an attorney or agent of record. Registration Number_____.

_____ _____
Signature Date

_____ _____
Typed or Printed Name Telephone Number

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. 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.

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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OFFICE OF PETITIONS

In re Application of :
Donald A. Brown et al. :
Application No. 29/327,349 : DECISION ON PETITION
Filed: November 04, 2008 :
Attorney Docket No. **20081488-US-DP** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 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.

This application became abandoned for failure to timely pay the issue fees and to submit corrected formal drawings on or before November 09, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 09, 2010. Accordingly, the date of abandonment of this application is November 10, 2010.

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

In regard to item (4), it is noted that the Terminal Disclaimer filed April 20, 2011, lists Xerox corporation as owning the entire interest in the instant application. However, office records currently show the assignees of the above-identified application listed as Xerox Corporation and Fuji Xerox Co., LTD.

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

By Mail:
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P. O. Box 1450
Alexandria, VA 22313-1450

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Donald A. Brown et al. :
Application No. 29/327,349 : DECISION ON PETITION
Filed: November 04, 2008 :
Attorney Docket No. **20081488-US-DP** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 25, 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.

This application became abandoned for failure to timely pay the issue fees and to submit corrected formal drawings on or before November 09, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 09, 2010. Accordingly, the date of abandonment of this application is November 10, 2010.

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

In regard to item (4), it is noted that the Terminal Disclaimer filed May 25, 2011, lists Xerox corporation as owning 50% interest in the instant application. However, office records currently show the assignees of the above-identified application listed as Xerox Corporation and Fuji Xerox Co., LTD. A Terminal Disclaimer is needed from the other assignee. Petitioner should note that each partial assignee must provide a submission under 37 CFR 3.73(b). See MPEP § 324 (VIII).

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Brown et al. :
Application No. 29/327,349 : DECISION ON PETITION
Filed: November 4, 2008 :
Attorney Docket No. 20081488-US-DP :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 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.

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)(II)(C) and (D). The instant petition lacks item (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer and fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. A terminal disclaimer cannot be signed by an attorney in representative capacity.

Further, petitioner has submitted a terminal disclaimer naming an improper assignee. Petitioner has submitted a terminal disclaimer with the owner of 50% interest as FUJI XEROX. According to USPTO records FUJI XEROX is not a current assignee of 50% interest in the above-identified

application.

In view of the above, the terminal disclaimer submitted September 15, 2011 by Tallam I. Nguti is considered improper.

Further, the submission under 37 CFR 3.73(b) also names an improper assignee as noted above.

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 fax: (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

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OCT 27 2011
OFFICE OF PETITIONS

In re Application of	:	
Brown et al.	:	
Application No. 29/327,349	:	DECISION ON PETITION
Filed: November 4, 2008	:	
Attorney Docket No. 20081488-US-DP	:	

This is a decision on the renewed 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**.

This application became abandoned for failure to timely pay the issue fee and to submit corrected formal drawings on or before November 9, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 9, 2010. Accordingly, the date of abandonment of this application is November 10, 2010. A Notice of Abandonment was mailed December 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $860.00, and Corrected drawings (submitted December 9, 2010), (2) the petition fee of $1,620.00 (submitted December 9, 2010), (3) a proper statement of unintentional delay and (4) two Terminal Disclaimers and required $280.00 fee.

The request for two terminal disclaimers is accepted and has been made of record.

Additionally, unnecessary duplicate terminal disclaimer fees totaling $460.00 will be refunded to petitioner's deposit account in due course.

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 and review of the corrected drawings submitted December 9, 2010.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. D650834 :
Application No. 29/327,349 :
Filed: November 4, 2008 : ON PETITION
Issued: December 20, 2011 :
Attorney Docket No. 20081488-US-DP :

This is a decision on the petition filed January 11, 2012, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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

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Date: 10/01/10

Patent No. : D622307 S
Ser. No. : 29/327,352
Inventor(s) : BROWN, DONALD A.
Issued : 08/24/10
Title : **OFFICE MACHINE**
Docket No. : **20081490-US-DP**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-0025
ATTN: Office of Petitions

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 756-1574 or (703) 305-8309

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OFFICE OF PETITIONS

Patent No. D 622,307 :
Issue Date: August 24, 2010 :
Application No. 29/327,352 : ON PETITION
Filed: November 4, 2008 :
Attorney Docket No. 20081490-US-DP :

This is a decision on the petition filed October 19, 2010, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED.**

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Patent No. D634,360 :
Issue Date: March 15, 2011 :
Application No. 29/327,355 : DECISION ON PETITION
Filed: November 4, 2008 :
Attorney Docket No. 2081493-US-DP :

This is a decision on the petition under 37 CFR 3.81(b), filed March 22, 2011.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re Patent No. D634,360 :
Issue Date: March 15, 2011 :
Application No. 29/327,355 : DECISION ON PETITION
Filed: November 4, 2008 :
Attorney Docket No. 2081493-US-DP :

This is a decision on the petition under 37 CFR 3.81(b), filed December 13, 2011.

The petition is **GRANTED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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SHUTTLEWORTH & INGERSOLL, P.L.C.
115 3RD STREET SE, SUITE 500
P.O. BOX 2107
CEDAR RAPIDS IA 52406

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NOV 22 2011
OFFICE OF PETITIONS

In re Application of :
Brent Christopher :
Application No. 29/327,417 : NOTICE
Filed: November 5, 2008 :
Attorney Docket No. **17157-0010-2** :

This is a notice regarding your request filed October 17, 2011, and supplemented on November 17, 2011, 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 patent 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

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OFFICE OF PETITIONS

COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO TX 78205-1521

In re Application of :
Sally Sirkin LEWIS :
Application No. 29/327,435 : ON PETITION
Filed: November 5, 2008 :
Attorney Docket No. 32909.14 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2010.

The petition is **DISMISSED**.

The application became abandoned for failure to submit the issue fee and corrected drawings in a timely manner in reply to the Notice of Allowability (Notice), mailed April 6, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 7, 2009.

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

In respect to item (1): The Office acknowledges the receipt of the Issue fee and Terminal Disclaimer received with the petition on October 7, 2010, however, the replacement drawings were not accepted by the Examiner assigned to this application. In this regard, the reply cannot be considered proper under the provisions of 37 CFR 1.137(b) and cannot be granted. Petitioner is encouraged to review the Notice mailed April 6, 2009 and direct any inquiries to the Examiner at (571) 272-2637.

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.

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:
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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.

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

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COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO TX 78205-1521

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MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Sally Sirkin LEWIS :
Application No. 29/327,435 : ON PETITION
Filed: November 5, 2008 :
Attorney Docket No. 32909.14 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 6, 2011.

The petition is **GRANTED.**

The application became abandoned for failure to submit the issue fee and corrected drawings in a timely manner in reply to the Notice of Allowability (Notice), mailed April 6, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 7, 2009.

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 and the issue fee of $430; (2) the petition fee of $810; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

The replacement drawings filed with the renewed petition dated January 6, 2011, have been approved by the Examiner assigned to this application.

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

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

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

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OFFICE OF PETITIONS

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of :
Sovonick, et al. :
Application No. 29/327,489 : ON PETITION
Filed: November 6, 2008 :
Attorney Docket No. **D1438**

This is a decision on the petition under 37 CFR 1.137(b) filed March 4, 2011.

The petition is GRANTED.

This application became abandoned for failure to timely remit the issue fee of $860.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed December 1, 2010. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on March 2, 2011. A Notice of Abandonment was mailed on March 8, 2011.

The issue fee was received on March 4, 2011.

The terminal disclaimer and fee were received on March 4, 2011.

The application file will be 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

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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

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AUG 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Bjoern Kling et al. :
Application No. 29/327,609 : ON PETITION
Filed: November 10, 2008 :
Attorney Docket No. ZD04729 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2010, to revive the above-identified application.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jay A. Krebs 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, Mr. Krebs desires to be acknowledged as the attorney of record, the appropriate power of attorney documents must be submitted

The petition is **DISMISSED**.

This application became abandoned for failure to timely filed the corrected formal drawings on or before June 7, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 5, 2010. Accordingly, the date of abandonment of this application is June 8, 2010.

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

As to item (4)

Since the above-identified application is a design application a terminal disclaimer is required. As stated in 37 CFR 1.137(d) it requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(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 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:
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Alexandria, VA 22313-1450

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

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

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22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

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NOV 0 8 2010

OFFICE OF PETITIONS

In re Application of :
Bjoern Kling et al. :
Application No. 29/327,609 : ON PETITION
Filed: November 10, 2008 :
Attorney Docket No. **SARA.6245-NY** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2010, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings, (2) the petition fee of $810; and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 to be processed into a patent.

JoAnne Burke
Petitions Examiner
Office of Petitions

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WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of :
Patterson :
Application No. 29/327,672 : DECISION
Filed: 11 November, 2008 :
Attorney Docket No: 311827.1N :

This is a decision on the petition filed on 6 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

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

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

BACKGROUND

The record reflects as follows:

The Applicant failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (drawings requirement) mailed on 15 September, 2010, with reply due under a non-extendable deadline on or before 15 December, 2010.

The application went abandoned by operation of law after midnight 15 December, 2010.

The Office mailed the Notice of Abandonment on 29 December, 2010.

On 6 January, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b)—with a reply in the form of drawings due, made a statement of unintentional delay and submitted a terminal disclaimer (signed by Counsel) with fee.

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

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

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

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

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

CONCLUSION

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

The instant application is released to the Publications Branch to be processed into a patent in due course.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[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.

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SHLESINGER ARKWRIGHT & GARVEY LLP
5845 RICHMOND HIGHWAY SUITE 415
ALEXANDRIA VA 22303

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of	:	
Martin William Willis	:	
Application No. 29/327,764	:	DECISION ON PETITION
Filed: November 12, 2008	:	
Attorney Docket No. P-102/10	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed May 4, 2011.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the final Office action mailed September 7, 2010. This Office action set a shortened statutory period for reply of three (3) months. Therefore, the last day a reply could have been timely filed with a three month extension of time would have been March 7, 2011. The Office mailed a Notice of Abandonment on April 27, 2011.

A review of the application file reveals the presence of an Amendment, filed on February 22, 2011, made timely by obtaining a three month extension of time. A review of Office finance records confirms that the Office received the fee for the three month extension of time on that same day. Lastly, the undersigned consulted with the examiner, who indicated that the Amendment placed the application in condition for allowance. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

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

The matter is being forwarded to Group Art Unit 2917 for consideration of the Amendment filed February 22, 2011 (made timely by obtaining a three month extension of time).

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
29/327,798	11/13/2008	Grant Larson	PORD-MU 1118	1903

24131 7590 08/05/2010
LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER	
BROWN, MELODY NOEL	
ART UNIT	PAPER NUMBER
2917	
MAIL DATE	DELIVERY MODE
08/05/2010	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PH

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

AUG - 5 2010

In re Application of
LARSON ET AL.
Serial No.: 29327798
Filed: 11/13/2008

: DECISION ON PETITION

This is a decision on the petition 37 C.F.R. § 1.103(a) filed May 13, 2009 to suspend action by the Office.

The petition is GRANTED.

REGULATION AND PRACTICE

A grantable petition to suspend action under 37 CFR § 1.103(a) must include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

REVIEW OF FACTS

The application was filed Nov. 13, 2008. At the time of the filing, applicants filed a petition for suspension of action by the Office. That petition was granted by the examiner April 28, 2009. A second petition for the suspension of action was filed May 13, 2009. The second request for a review of the May 13, 2009 petition was filed Nov. 13, 2009, pursuant to the applicant receiving a Notice of Allowance dated Nov. 2, 2009.

DECISION

Since the applicant has provide sufficient reason for the suspension along with the appropriate fees, the petition is GRANTED. Action on this case is suspended for a period of six months form the mailing date of this decision.

Petitioner is advised that this suspension of action under 37 CFT 1.103(a) at the applicant's requrest will cause a reductio in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reductio is equal to the number of days beginning on the date a request for suspension of action was fild and ending on the date of the termination of the suspension. See 37 CFR 1.704(c) (1) and MPEP 709.

Any inquiry regarding this decision should be directed to Philip S. Hyder, Supervisory Patent Examiner, at (571) 272-2621 .

/Robert Olszewski/
Director, Technology Center 2900
Designs

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Melissa Bramlage :
Application No. 29/327,879 : ON PETITION
Filed: November 14, 2008 :
Attorney Docket No. **SARA.6245-NY** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 19, 2010, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the issue fee, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The petition is **GRANTED**.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 to be processed into a patent.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/09/11

TO SPE OF : ART UNIT: 2912 Attn: REID STELLA M (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/327953 Patent No.: D618544

CofC mailroom date: 11/22/2011

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Note: Please check the Foreign Application Priority Data Should this Data be added or not

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

Thank You For Your Assistance

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

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

Comments: _____

STELLA M. REID
SUPERVISORY PATENT EXAMINER 2912

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Adalberto Geier :
Application No. 29/328,083 : DECISION ON PETITION
Filed: November 18, 2008 :
Attorney Docket No. CD901 :

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

The petition is **DISMISSED.**

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

The application became abandoned for failure to timely pay the issue fee on or before August 14, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 14, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 15, 2009. A Notice of Abandonment was mailed on September 9, 2009.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(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 petition lacks item (4) above. Although the Office recognizes that the petitioner submitted a terminal disclaimer, the terminal disclaimer cannot be accepted since it is not signed by an attorney or agent of record. Accordingly, this application cannot be revived until a terminal disclaimer in compliance with § 1.32(b) is submitted. See 37 CFR 1.321(b)(i)(iv).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure: Final Rule Notice, 62 Fed. Reg. 53131, 5194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Further, petitioner should note that the power of attorney filed June 30, 2010, cannot be accepted since it appears to be submitted on behalf of the assignee and does not comply with the requirements under 37 CFR 3.73(b)[3].

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 Internet: EFS-Web[4]

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

[3] 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

[4] 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

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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI, OH 45202

MAILED

NOV 24 2010

OFFICE OF PETITIONS

In re Application of :
Adalberto Geier :
Application No. 29/328,083 : DECISION ON PETITION
Filed: November 18, 2008 :
Attorney Docket No. CD901 :

This is a decision on the petition filed October 18, 2010, to withdraw holding of abandonment. The petition is more properly treated as a renewed petition under the unintentional provisions of 37 C.F.R. § 1.137(b), to revive the above-identified design application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the issue fee on or before August 14, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 14, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 15, 2009. A Notice of Abandonment was mailed on September 9, 2009.

A grantable petition under 37 CFR 1.137(b) [1] must be accompanied by: (1) the required reply [2], unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(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 petition lacks item (4) above. The terminal disclaimer cannot be accepted since it is not signed by an attorney or agent of record. Accordingly, this application cannot be revived until a terminal disclaimer in compliance with § 1.32(b) is submitted. See 37 CFR 1.321(b)(i)(iv).

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure: Final Rule Notice, 62 Fed. Reg. 53131, 5194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] 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.

Petitioner's attention is directed to 37 CFR § 1.4 (c), which states that: since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects. Therefore, the statement under 37 CFR 3.73(b) provided on the Terminal Disclaimer Form is not acceptable.

In view of the above, the power of attorney filed June 30, 2010, cannot be accepted as it does not comply with the requirements under 37 CFR 3.73(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 Internet: EFS-Web [3]

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

[3] 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

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FEB 18 2011

OFFICE OF PETITIONS

In re Application of :
Adalberto Geier :
Application No. 29/328,083 : DECISION ON PETITION
Filed: November 18, 2008 :
Attorney Docket No. CD901 :

This is a decision on the renewed petition filed January 24, 2011, under the unintentional provisions of 37 C.F.R. § 1.137(b), to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before August 14, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 14, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 15, 2009. A Notice of Abandonment was mailed on September 9, 2009.

This 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 $860, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee of $140 as required by 37 CFR 1.137(d).

The terminal disclaimer filed January 24, 2011 is accepted. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

Further, the Power of Attorney filed January 24, 2011, is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

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

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

Alicia Kelley
Petitions Examiner
Office of Petitions

Enclosed: Notice of Acceptance of Power of Attorney

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
29/328,083	11/18/2008	Adalberto Geier	CD901

CONFIRMATION NO. 7925

27752
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

POA ACCEPTANCE LETTER

OC000000046056981

Date Mailed: 02/17/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/24/2011.

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

/atkelley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AEON Law
1525 4th Ave
Suite 800
Seattle WA 98101

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application of :
Royes et al. :
Application No. 29/328,246 : DECISION ON PETITION
Filed: November 20, 2008 :
Attorney Docket No. OPUS-2010002 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2010 and supplemented on August 10, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts in a Nonprovisional Application (Notice), mailed December 4, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. An untimely reply was filed on February 9, 2009. A Notice of Incomplete Reply was mailed on February 18, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 5, 2009. A Notice of Abandonment was mailed on December 3, 2009. A petition filed under 37 CFR 1.137(b) January 29, 2010 was dismissed on March 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 the $65 surcharge and declaration (2) the petition fee of $810, (3) a proper statement of unintentional delay and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROPES & GRAY LLP
IPRM - FLOOR 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of :
Thomas Jerome Bachinski :
Application No. 29/328,333 : DECISION ON PETITION
Filed: November 21, 2008 :
Attorney Docket No. ACIZ-101-201 :

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

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fee and to submit corrected formal drawings on or before April 8, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed January 8, 2010. Accordingly, the date of abandonment of this application is April 9, 2010. A Notice of Abandonment was mailed April 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $860.00, and corrected formal drawings , (2) the petition fee of $1,620.00, (3) a proper statement of unintentional delay and (4) a Terminal Disclaimer and required $140.00 fee.

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.

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the corrected drawings submitted 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

MAILED

JUN 14 2011

OFFICE OF PETITIONS

ROPES & GRAY LLP
IPRM - Floor 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

In re Application of	:	
Thomas Jerome Bachinski	:	DECISION GRANTING PETITION
Application No. 29/328,334	:	UNDER 37 CFR 1.137(b)
Filed: November 21, 2008	:	
Atty. Docket No.: ACIZ-102-201	:	

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

The petition is **GRANTED**.

The application went abandoned for failure to reply in a timely manner to the non-final Office action mailed April 9, 2010 (Office action), which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. The application thus became abandoned on July 10, 2010. A Notice of Abandonment was mailed November 23, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response, and submission of replacement drawings as required by the Office action, (2) a petition fee of $1620, (3) a statement of unintentional delay, and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The reply to the Office action is accepted as having been unintentionally delayed.

The terminal disclaimer submitted with the instant petition is approved.

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

The application file will be referred to Technology Center Art Unit 2912 for further action on the filed Response.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROPES & GRAY LLP
IPRM - FLOOR 43
PRUDENTIAL TOWER
800 BOYLSTON STREET
BOSTON MA 02199-3600

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Application of :
Bachinski, Thomas Jerome :
Application No. 29/328,335 : ON PETITION
Filed: November 21, 2008 :
Attorney Docket No. ACIZ-103-201 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Response to Non-Final Office Action, (2) the petition fee of $1620.00, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee.

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

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

This matter is being referred to Technology Center AU 2912 for further examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WEIDE & MILLER, LTD.
7251 W. LAKE MEAD BLVD.
SUITE 530
LAS VEGAS NV 89128

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of :
Ronald Allen Montoya :
Application No. 29/328351 : DECISION ON
Filing or 371(c) Date: 11/22/2008 : PETITION
Title of Invention: :
TISSUE BOX :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 7, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed December 14, 2009. The Office action set a three (3) month period for reply. No complete and proper reply having been received, the application became abandoned on March 15, 2010. A Notice of Abandonment was mailed July 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee filed with the petition, and corrected drawings (filed September 14, 2010); (2) the petition fee, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee and file corrected drawings as required by the Notices is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

Date : 9/7/2010
Patent No. : D621,875 S
Serial No. : 29/328,484
Inventor(s) : Stukenkeper
Issue Date : August 10, 2010
Title : **WRITING IMPLEMENT**
Doc./File No. : **26856/04059**

Re: Reconsideration for Certificate of Correction

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

Respecting the alleged error(s) in your request, on the title page, in item (30) Foreign Application Priority Data, comparison of the printed patent with the corresponding location in the application file and reveals that there is no discrepancy. The current code representing the country, "Ecuador" is -- (EC) -- , as shown on the title page. Therefore, no correction is in order here.

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

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

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

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

ecw

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/28//10

TO SPE OF : ART UNIT 2913 (2900)

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/328,484 Patent No.: D 621,875

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
Randolph Sq. Ste 9D62A
703-756-1590

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.

Caron D Veynar

CARON D. VEYNAR
SUPERVISORY PATENT EXAMINER

SPE _____ ART UNIT 2913

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110516

DATE : February 15, 2011

TO SPE OF : ART UNIT 2913

SUBJECT : Request for Certificate of Correction on Patent No.: D618163

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:

/CARON D VEYNAR/
Supervisory Patent Examiner.Art Unit 2913

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110419

DATE : October 13, 2011

TO SPE OF : ART UNIT 2913 29/328508

SUBJECT : Request for Certificate of Correction on Patent No.: D618165

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:

29/328508

/CARON D VEYNAR/
Supervisory Patent Examiner.Art Unit 2913

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/27/10

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction for Appl. No.: 29328826 Patent No.: D620110

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Director's SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

IAN SIMMONS
SUPERVISORY PATENT EXAMINER

2916

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITCH, EVEN, TABIN & FLANNERY
P. O. BOX 18415
WASHINGTON, DC 20036

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of Feldman :
Application No. 29/328,948 : Decision on Petition
Filing Date: December 4, 2008 :
Attorney Docket No. 9092-98087 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 16, 2010, 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 November 13, 2009 which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 14, 2010. A Notice of Abandonment was mailed on February 26, 2010.

A petition under 37 CFR 1.137(b) was filed March 9, 2010. The Office mailed a decision dismissing the petition on July 19, 2010. The decision stated the petition could not be granted because the petition was not accompanied by a terminal disclaimer.

The instant petition includes a terminal disclaimer. 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
www.uspto.gov

GREGORY & MARTENSEN LLP
2018 BISSONNET STREET
HOUSTON TX 77005

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Moneypenny et al.	:	
Application No. 29/329,281	:	DECISION ON PETITION
Filed: December 11, 2008	:	
Attorney Docket No. IAIR.D007	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before March 3, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed December 3, 2010. Accordingly, the date of abandonment of this application is March 4, 2011. A Notice of Abandonment was mailed March 24, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Corrected Drawings, (2) the petition fee of $810.00, (3) a proper statement of unintentional delay, and (4) a Terminal Disclaimer and required $70.00 fee.

Further, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the Corrected Drawings submitted 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

G. LINK CO., LTD.
3550 BELL ROAD
MINOOKA IL 60447

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Atsushi TAKABU :
Application No. 29/329,379 : DECISION ON PETITION
Filed: December 15, 2008 :
Attorney Docket No. SANEMU-5(US)_CIP :

This is a decision on the renewed petition, filed March 17, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.8(b) is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed February 09, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 10, 2009.

Petitioner states that a timely reply was filed via fax on March 23, 2009. Petitioner has submitted a copy of a facsimile transmission confirmation from MyFax, which bears a fax delivery date of March 23, 2009. Petitioner also states that the wrong serial number was erroneously typed as 29/087,379 on the transmittal letter dated March 23, 2009.

A review of the Office records indicates that a response was filed March 23, 2009 however the transmittal letter included an incorrect application number. In processing by the Office the response was initially placed in 29/087,379. However a subsequent review of the identifiers by the Office indicates that the correct serial number should have been 29/329,379. The Office moved the response of March 23, 2009 from 29/087,379 to 29/329,379 and the response will be entered. Since the Office has discovered the mistake by applicant in the papers filed, the petition will therefore be granted.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application file is being referred to the Office of Data Management for processing.

Thurman Page
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE FL 33330

MAILED

SEP 21 2010

OFFICE OF PETITIONS

In re Application of :
Peter Reisenthel :
Application No. 29/329,462 : DECISION ON PETITION
Filed: December 16, 2008 :
Attorney Docket No. :
REISENTHEL/LAPTOP BAG DES

This is a decision on **(a)** the petition, filed June 7, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment and in the alternative, **(b)** a petition to revive the above-identified under the unintentional provision of 37 CFR 1.137(b).

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

This application was held abandoned for failure to submit corrected drawings on or before May 3, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 1, 2010. A Notice of Abandonment was mailed on May 19, 2010.

Petitioner asserts that a correct Notice pertaining to the above identified application dated February 1, 2010 was not received.

A review of the written record **at the Office** indicates that a correct Notice was mailed on February 1, 2010, that properly noted the requirement of submission of a corrected drawing in response to the Notice. However, as stated in the instant petition, the fourth page of the Notice of Allowance and Fee(s) Due (also mailed on February 1, 2010) **received** by the petitioner (copy has been included with the instant petition) does not pertain to the above-identified application. This page (i.e., Notice of Allowability) evidently belongs to application serial number 29/333,482. Since this page **did not** indicate that corrected drawings were required, the petitioner concluded that no corrected drawings were required to be submitted in the instant application as part of the petitioner's response to the Notice.

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

In view of the above decision, the alternative petition to revive under the unintentional provisions of 37 CFR 1.137(b) has not been considered.

This application is being referred to the Technology Center AU 2917 for consideration of a Replacement Drawing Sheet filed concurrently with the instant petition.

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

/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
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SEP 14 2011

OFFICE OF PETITIONS

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

In re Patent No. D617,323	:	
Issued: June 8, 2010	:	
Application No. 29/329,491	:	NOTICE
Filed: December 16, 2008	:	
Attorney Docket No.: F48.12-0005	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 23, 2011.

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

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

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

/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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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application:
Hendrikus Antonius Van Dijk
Application No. 29/329,554
Filed: December 17, 2008
Attorney Docket No. 703858

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 12, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.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
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Dickstein Shapiro LLP
2049 Century Park East
Suite 700
Los Angeles CA 90067

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of :
Tsui, et al. :
Application No. 29/329,566 : ON PETITION
Filed: December 17, 2008 :
Attorney Docket No. 100992.24028US (D001)

This is a decision on the petition under 37 CFR 1.181 filed on September 13, 2010, to withdraw the holding of abandonment.

The petition is **DISMISSED**[1].

The application became abandoned on July 16, 2010, after no response was received to the Notice of Allowance and Issue Fee Due (the "Notice") mailed April 15, 2010, 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 July 16, 2010. A Notice of Abandonment was mailed on August 31, 2010.

A review of the application file history reveals that a Notice of Allowance and Issue Fee Due was mailed December 18, 2009. On March 16, 2010, applicants paid the issue fee. On March 29, 2010, the application was withdrawn from issuance pursuant to a "Withdrawal from Issue under 37 CFR 1.313(b)" mailed March 29, 2010. The March 29, 2010, notice stated, in pertinent part:

> 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.

A new Notice of Allowance and Issue Fee Due was mailed April 15, 2010, requiring payment of the issue fee and setting a statutory period for reply of three months from its mailing date. A Notice of Allowability for Design Application was also sent requiring a substitute declaration. The Notice of Allowance and Issue Fee Due stated that, "[t]he issue fee due indicated above does not reflect a credit for any previously paid issue fee in this application. If an issue fee has been previously paid in this application...the return of Part B of this form will be considered a request to reapply the previously paid issue fee toward the issue fee now due."

The record reflects that on June 21, 2010, applicants filed a substitute declaration, but did not pay the issue fee, or file a written request for the previously paid issue fee to be applied to the new Notice of Allowance, or file Part B of the Notice of Allowance and Issue Fee Due. Applicant is not a liberty to

[1] This decision was reached after consultation with the supervisory staff of the Office of Petitions.

in error. Applicants were obligated to file a timely response to the Notice. See MPEP 710.06. Section 711.02 of the Manual of Patent Examining Procedure, citing 37 CFR 1.135(a) states, in pertinent part, that, "...an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b))." In this case, applicant failed to respond to the Notice mailed April 15, 2010, and the application was properly held abandoned on July 16, 2010.

Further, the Office regrets that any purported advisement of the examiner was inaccurate insofar as it related to the status of the application. Petitioner is advised, however, that the business of the Office is to be transacted in writing and all proceedings are based on the written record as it exists. Accordingly, the fact that the examiner may have misinformed petitioner has no bearing on petitioner's obligation to file a timely and proper response to the Notice of Allowance and Issue Fee Due. See 37 CFR 1.2.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dickstein Shapiro LLP
2049 Century Park East
Suite 700
Los Angeles CA 90067

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Tsui, et al. :
Application No. 29/329,566 : ON PETITION
Filed: December 17, 2008 :
Attorney Docket No. 100992.24028US (D001)

This is a decision on the renewed petition under 37 CFR 1.181 filed on January 20, 2011, to withdraw the holding of abandonment. This is also a decision on the petition under 37 CFR 1.137(b), also filed January 20, 2011.

The renewed petition under 37 CFR 1.181 is **DISMISSED**[1].

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

The application became abandoned on July 16, 2010, after no response was received to the Notice of Allowance and Issue Fee Due (the "Notice") mailed April 15, 2010, 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 July 16, 2010. A Notice of Abandonment was mailed on August 31, 2010. A petition under 37 CFR 1.181 was filed September 13, 2010, and dismissed by a decision mailed December 2, 2010.

TREATMENT UNDET 37 CFR 1.181

A review of the application file history reveals that a Notice of Allowance and Issue Fee Due was mailed December 18, 2009. On March 16, 2010, applicants paid the issue fee. On March 29, 2010, the application was withdrawn from issuance pursuant to a "Withdrawal from Issue under 37 CFR 1.313(b)" mailed March 29, 2010. The March 29, 2010, notice stated, in pertinent part:

> 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.

A new Notice of Allowance and Issue Fee Due was mailed April 15, 2010, requiring payment of the issue fee and setting a statutory period for reply of three months from its mailing date. A Notice of Allowability for Design Application was also sent requiring a substitute declaration. The Notice of Allowance and Issue Fee Due stated that, "[t]he issue fee due indicated above does not reflect a credit for any previously paid issue fee in this application. If an issue fee has been previously paid in this

[1] This decision was reached after consultation with the supervisory staff of the Office of Petitions.

application...the return of Part B of this form will be considered a request to reapply the previously paid issue fee toward the issue fee now due."

The record reflects that on June 21, 2010, applicants filed a substitute declaration, but did not pay the issue fee, or file a written request for the previously paid issue fee to be applied to the new Notice of Allowance, or file Part B of the Notice of Allowance and Issue Fee Due. The Notice of Abandonment was mailed August 31, 2010.

By the instant renewed petition, petitioner again asserts that the holding of abandonment was improperly imposed. In summary, applicants argue that the Notice of Allowance and Issue Fee Due allows the applicant to file an Issue Fee Transmittal Form or its equivalent with the Office. Applicant maintains that the transmittal form filed June 21, 2010, is the equivalent of an Issue Fee Transmittal form sufficient for the Office to credit the previously paid issue fee or again charge the issue fee to the designated deposit account.

Applicants' argument is not persuasive. It is noted that March 29, 2010, "Withdrawal from Issue under 37 CFR 1.313(b) instructs applicants that the previous issue fee payment can be applied toward payment of the issue fee required by the new Notice of Allowance and that this request must be made in writing. It is further noted that the Notice of Allowance and Issue Fee Due also advises that, "[i]f the equivalent of Part B is filed a request to reapply a previously paid issue fee must be clearly made." The transmittal letter filed June 21, 2010, does not clearly state that the previously paid issue fee should be applied to the new Notice of Allowance and Issue Fee Due. Further, where applicant has already paid an issue fee, it would not be appropriate to charge the issue fee to the deposit account, especially absent any clear instruction from applicant to that effect. The record does not demonstrate, and applicant does not establish, that applicant provided any clear response relative to the new Notice of Allowance and Issue Fee as to whether the previously paid issue fee should be credited to the current issue fee due or the issue fee refunded. The holding of abandonment is deemed to be proper as applicants' failed to completely respond to the Notice of Allowance and Issue Fee Due mailed April 15, 2010.

TREATMENT UNDER 37 CFR 1.137(b)

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

The Issue Fee Transmittal Form filed September 13, 2010, is noted.

The terminal disclaimers filed January 20, 2010, are noted and made of record.

Deposit account 04-1073 will be charged $1,620.00 for the instant petition fee.

The application file is being directed to the Office of Data Management for further processing with the indication that the Issue Fee Transmittal filed September 13, 2010, is to be interpreted as a request to apply the issue fee paid March 16, 2010, to the issue fee payment required by the Notice of Allowance mailed April 15, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned (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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ROBERTS MLOTKOWSKI SAFRAN & COLE PC
INTELLECTUAL PROPERTY DEPARTMENT
PO BOX 10064
MCLEAN VA 22102-8064

MAILED
DEC 23 2011
OFFICE OF PETITIONS

In re :
Kurumagawa, et al. :
Application No. 29/329,572 : DECISION ON PETITION
Filed: December 17, 2008 :
Attorney Docket No. 743030-35 :

This is a decision on the petition under 37 CFR 3.81(b), filed December 8, 2011.

The petition is **GRANTED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee is acknowledged.

The $100 fee for the Certificate of Correction has been charged to Deposit Account No. 50-2478, as authorized.

The file is being forwarded to the Office of Data Management for processing into a patent, and thereafter the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of
Emerick et al.
Application No. 29/329,855
Filed: December 22, 2008
Attorney Docket No. EMRCK 1054874

: DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 9, 2009, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected formal drawings in a timely manner in reply to the Notice of Allowability, mailed May 18, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 19, 2009. A Notice of Abandonment was mailed September 14, 2009.

This petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form replacement drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee of $70 as required by 37 CFR 1.137(d). Accordingly, the failure to timely submit replacement drawings as required by the Notice of Allowability is accepted as being unintentionally delayed.

The terminal disclaimer filed December 9, 2009, is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Emerick et al. :
Application No. 29/329855 :
Filed: December 22, 2008 :
Attorney Docket No. EMRCK 1054874 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 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 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 David R. Heckadon, on behalf of the practitioners of record associated with Customer No. 27111.

27111 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 are no outstanding Office actions that require a reply from the applicant.

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: CHRISTINA EMERICK
P.O. BOX 3557
RANCO SANTA FE, CA 92067

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
29/329,855	12/22/2008	Christina M. Emerick	EMRCK 1054874

CONFIRMATION NO. 1633

POWER OF ATTORNEY NOTICE

27111
GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

OC00000043704918

Date Mailed: 09/24/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/07/2010.

- 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.

/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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RUBEN ALCOBA, ESQ.
3399 NW 72 AVENUE
SUITE211
MIAMI, FL 33122

MAILED
OCT 04 2011
OFFICE OF PETITIONS

In re Application of :
Jose Alberto Colon, et al. :
Application No. 29/329,881 : ON PETITION
Filed: December 23, 2008 :
Attorney Docket No.: D0127 :

This is a decision in response to the petition, filed August 30, 2011, to revive the above-identified design application under 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for a failure to timely pay the issue fee on or before June 17, 2011, as required by the Notice of Allowance and Fee(s) Due mailed March 3, 2011. A Notice of Abandonment was subsequently mailed on June 16 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee of $430, (2) the petition fee of $810, (3) an adequate statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer filed August 30, 2011 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to the Office of Data Management for further processing.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110816

DATE : August 16, 2011

TO SPE OF : ART UNIT 2912

SUBJECT : Request for Certificate of Correction on Patent No.: D624437

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:

/STELLA REID/
Supervisory Patent Examiner.Art Unit 2912

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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MAILED

OCT 13 2010

OFFICE OF PETITIONS

PATENT ADMINISTRATOR
NEAL, GERBER, & EISENBERG
SUITE 1700
2 NORTH LASALLE STREET
CHICAGO IL 60602

In re Application of Chun Chieh Hsu :
Application No. 29/329,944 : Decision on Petition
Filing Date: December 23, 2008 :
Attorney Docket No. 21544.01US5 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. 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)."

A grantable petition under 37 CFR 1.137(b) must be accompanied by a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the instant petition includes such a statement, the statement should also appear in any request for reconsideration. In other words, any request for reconsideration should include the following statement, or a similar statement: "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed December 31, 2009, which set a period for reply of three (3) months. The application became abandoned on April 1, 2010. A Notice of Abandonment was mailed on April 19, 2010.

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 includes new drawings, which have been reviewed and approved by the examiner, the required petition fee, and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Unfortunately, the petition does not include a terminal disclaimer.

A terminal disclaimer is required when a petition under 37 CFR 1.137 is filed to revive a design application. Specifically, 37 CFR 1.137(d)(1) states in part, with emphasis added, "Any petition to revive pursuant to this section in a *design application* must be accompanied by a terminal disclaimer and fee as set forth in § 1.321." The instant petition is not accompanied by a terminal disclaimer. Therefore, the petition must be dismissed.

Any request for reconsideration should include a terminal disclaimer (and fee). A PDF "fillable" terminal disclaimer form can be found at: http://www.uspto.gov/web/forms/sb0063.pdf.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

UNITED STATES 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 ADMINISTRATOR
NEAL, GERBER, & EISENBERG
SUITE 1700
2 NORTH LASALLE STREET
CHICAGO IL 60602

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Application of Chun Chieh Hsu :
Application No. 29/329,944 : Decision on Petition
Filing Date: December 23, 2008 :
Attorney Docket No. 21544.01US5 :

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed December 31, 2009, which set a period for reply of three (3) months. The application became abandoned on April 1, 2010. A Notice of Abandonment was mailed on April 19, 2010.

A petition under 37 CFR 1.137(b) was filed May 12, 2010. The Office mailed a decision dismissing the petition on October 13, 2010. The decision stated,

> The petition includes new drawings, which have been reviewed and approved by the examiner, the required petition fee, and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Unfortunately, the petition does not include a terminal disclaimer.
>
> A terminal disclaimer is required when a petition under 37 CFR 1.137 is filed to revive a design application. Specifically, 37 CFR 1.137(d)(1) states in part, with emphasis added, "Any petition to revive pursuant to this section in a *design application* must be accompanied by a terminal disclaimer and fee as set forth in § 1.321." The instant petition is not accompanied by a terminal disclaimer. Therefore, the petition must be dismissed.

The instant renewed petition includes the required terminal disclaimer.

The requirements of 37 CFR 1.137(b) have been satisfied and the application is hereby revived.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and will prepare the application for issuance 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 05/26/11

TO SPE OF : ART UNIT: 2914 Attn: MURPHY CELIA A (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/329999 Patent No.: D619266S

CofC mailroom date: 12/21/10

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

Note: Please check Foreign Application Priority Data

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

Thank You For Your Assistance

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

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

Comments: The request for Cert/Correction is approved.

/Celia. A. Murphy/ 2914
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

MAILED

SEP 23 2010

OFFICE OF PETITIONS

STEVEN M. CLODFELTER
SUITE D
915 MERCHANTS WALK
HUNTSVILLE AL 35801

In re Application of :
Scott R. Sayre :
Application No. 29/330,201 : ON PETITION
Filed: December 30, 2008 :
Attorney Docket No. 08-0141.04 :

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

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely file the issue fee and corrected drawings on or before May 19, 2010, as required by the Notice of Allowability for A Design Application, mailed February 19, 2010. Accordingly, the date of abandonment of this application is May 20, 2010. A Notice of Abandonment was mailed June 8, 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)(A)(1) and (G).

The petition lacks item (4) above. Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required.

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 Internet: EFS-Web[1]

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

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

Alicia Kelley
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

NOV 02 2010

OFFICE OF PETITIONS

STEVEN M. CLODFELTER
SUITE D
915 MERCHANTS WALK
HUNTSVILLE, AL 35801

In re Application of	:	
Scott R. Sayre	:	
Application No. 29/330,201	:	DECISION ON PETITION
Filed: December 30, 2008	:	
Attorney Docket No. 08-0141.04	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and corrected drawings on or before May 19, 2010, as required by the Notice of Allowability for A Design Application mailed February 19, 2010. Accordingly, the application became abandoned on May 20, 2010. A Notice of Abandonment was mailed June 8, 2010.

The present 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 $430 and replacement drawings, (2) the petition fee of $810, (3) an adequate statement of unintentional delay, and (4) a terminal disclaimer and fee of $70 as required by 37 CFR 1.137(d). Accordingly, the failure to timely submit the issue fee as required by the Notice of Allowability is accepted as being unintentionally delayed.

The terminal disclaimer filed October 12, 2010, is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : February 16, 2011

Patent No. :D606622
Inventor :John C. Sorenson
Patent Issued :December 22, 2009
Title :LIQUID SPRAY EMITTER

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.

Inspection of the application for the patent reveals that in connection with the alleged error, pertaining to title page, item under the heading "Description", the preamble data as reflected in applicants request for correction is not warranted entry as the preamble data is not captured in the Letters Patent. Accordingly, there being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 and 323 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

/A. Green/

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Haugen Law Firm PLLP
121 South Eighth Street
1130 TCF Tower
Minneapolis, MN 55402

/arg

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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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Patent No. D620943	:	
Issued: August 3, 2010	:	
Application No. 29/330,461	:	ON PETITION
Filed: January 7, 2009	:	
Attorney Docket No. 3156.299US01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 8, 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Patent No. D627787 :
Issued: November 23, 2010 :
Application No. 29/330,462 : ON PETITION
Filed: January 7, 2009 :
Attorney Docket No. 3156.300US01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 8, 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Smith & Nephew, Inc.
Diana Houston
1450 Brooks Road
Memphis TN 38116

MAILED

MAY 31 2011

OFFICE OF PETITIONS

In re Application of :
Bryan Greener et al. :
Application No. 29/330,623 :
Filed: January 9, 2009 :
Attorney Docket No. 22111-0010001 / DN-0090-U :

DECISION ON PETITION

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

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue fee 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, 2010. A Notice of Abandonment was mailed on May 2, 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 (4).

As to item (1), the issue fee was not paid. The reply submitted was a CPA (Continued Prosecution Application). The CPA is proper, but in order to satisfy the reply the fees required from the Notice of Allowance mailed January 20, 2011, must be paid. If the case is allowable in the future and a new Notice of Allowance is mailed, these fees can be applied as payment at that time.

As to item (4) since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365 (c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 is required. If the terminal disclaimer is signed by the assignee, an assignee must comply with the requirements of 37 CFR 3.73(b).

As request the RCE fee which was paid on April 20, 2011 will be refunded to petitioner'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 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: Phyllis K. Kristal
Fish & Richardson P.C.
1425 K Street, NW
11th Floor
Washington, DC 20005

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

JUN 20 2011

OFFICE OF PETITIONS

Smith & Nephew, Inc.
Diana Houston
1450 Brooks Road
Memphis TN 38116

In re Application of :
Bryan Greener et al. :
Application No. 29/330,623 : DECISION ON PETITION
Filed: January 9, 2009 :
Attorney Docket No. 22111-0010001 / DN-0090-U :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee 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, 2010. A Notice of Abandonment was mailed on May 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee of $860, CPA (Continued Prosecution Application) Request ((2) the petition fee of $1,620, (3) a proper statement of unintentional delay and, (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the issue fee and CPA is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

This application is being referred to Technology Center AU 2914 for appropriate action by the Examiner in the normal course of business on the reply received June 10, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KINETIC CONCEPTS, INC.
C/O SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Benjamin A. Pratt, et al.	:	
Application No.: 29/330,907	:	DECISION ON PETITION
Filed: January 15, 2009	:	UNDER 37 CFR 1.55(c)
Attorney Docket No.: VAC.0878DES-C1	:	

This is a decision on the petition under 37 CFR 1.55(c), filed June 17, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign World Intellectual Property Application No. 466693301, filed November 3, 2008.

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

The petition is **dismissed as moot** for the reasons stated below.

37 CFR 1.55(a) indicates that the time periods set forth in therein do not apply if the later filed application is: (a) a design application; or (b) an application filed before November 29, 2000.

Therefore, a petition for acceptance of a claim for late priority under 37 CFR 1.55(c) is not applicable to design applications.

Since the present nonprovisional application is a design application, the provisions of 37 CFR 1.55(c) for acceptance of a late claim for foreign priority do not apply to the subject

nonprovisional application. Accordingly, the petition is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the petition fee will is subject to refund.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROBERT C. HILTON
SONNENSCHEIN, NATH & ROSENTHAL
2000 MCKINNEY AVENUE, SUITE 1900
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JAN 03 2012
OFFICE OF PETITIONS

In re Patent No. D647,928

Issue Date: November 1, 2011

Application No. 29/330,946

Filed: January 16, 2009

Attorney Docket No. **30784/44502**

ON PETITION

This is a decision on the petition filed December 5, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **dismissed**.

The instant petition was not accompanied by a Certificate of Correction setting forth the change to the assignee data requested and must be dismissed, accordingly.

The renewed petition must be accompanied by a Certificate of Correction setting forth the requested change to the assignee data. Form PTO/SB/44 is enclosed for petitioner's convenience. The fee for the Certificate of Correction is $100.00 and must accompany the renewed request.

The renewed request may be directed to the following:

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

[1] See *Official Gazette* of June 22, 2004.

Questions regarding this decision may be directed to the undersigned at (571)272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/44

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Patent No. D647,928

Issue Date: November 1, 2011

Application No. 29/330,946

Filed: January 16, 2009

Attorney Docket No. **30784/44502**

ON PETITION

This is a decision on the petition filed January 9, 2012, and in supplement on January 13, 2012, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 18 2011

OFFICE OF PETITIONS

WM. WRIGLEY JR. COMPANY
PATENT DEPARTMENT
1132 WEST BLACKHAWK STREET
CHICAGO, IL 60642

In re Application of
James A. Bougoulas, et al.
Application No. 29/330,974
Filed: January 16, 2009
Attorney Docket No.: WP10039

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed June 16, 2010. A Notice of Abandonment was mailed on October 5, 2010. In response, on November 24, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620, (3) an adequate statement of unintentional delay[1], and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely submit corrected drawings as required by the Notice of June 16, 2010 is accepted as being unintentionally delayed.

The terminal disclaimer filed November 24, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed November 24, 2010.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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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PETER F. WEINBERG
GIBSON, DUNN & CRUTCHER LLP
SUITE 4200
1801 CALIFORNIA STREET
DENVER, CO 80202

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Zhou Yan Fei :
Application No. 29/331,082 : ON PETITION
Filed: January 20, 2009 :
Attorney Docket No.: 79541-3F31 :

This is a decision on the petition, filed June 18, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed October 5, 2009, which set a shortened statutory period for reply of two (2) months. It is noted that a response was filed on November 11, 2009; however, the response was found to be non-compliant by a Notice of Non-Compliant Amendment (Notice) mailed April 22, 2010. On June 7, 2010, a Notice of Abandonment was subsequently mailed. In response, on June 18, 2010, the present petition was filed.

Petitioner asserts that upon a search of the file record and the docket records, there is no indication that the Notice of April 22, 2010 was received. In support, petitioner submits three (3) pages from the individual docket record for the application.

A review of the written record indicates no irregularity in the mailing of the Notice of April 22, 2010, 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 Notice was not in fact received.

The showing required to establish non-receipt 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar, reminder system, or the individual docket record for the application in question.

The evidence presented by applicant is insufficient to withdraw the holding of abandonment in accordance with the procedures set for at MPEP 711.03(c). Specifically, the petition fails to include a description of the system used for recording Office actions and the evidence does not include 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.

Absent the required evidence to establish non-receipt of the Notice of April 22, 2010, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

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

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

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

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

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

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

PETER F. WEINBERG
GIBSON, DUNN & CRUTCHER LLP
SUITE 4200
1801 CALIFORNIA STREET
DENVER, CO 80202

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of :
Zhou Yan Fei :
Application No. 29/331,082 : DECISION ON PETITION
Filed: January 20, 2009 :
Attorney Docket No.: 79541-3F31 :

This is a decision in response to the renewed petition under 37 CFR 1.181 (no fee), filed August 30, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the Office action, mailed October 5, 2009. A Notice of Abandonment was mailed on June 6, 2010. On June 18, 2010, a petition under the provisions of 37 CFR 1.181 was filed; however, the petition was dismissed in a decision mailed August 18, 2010. On August 30, 2010, the present petition was filed, wherein petitioner further argues that the Notice dated April 22, 2010 was not received.

The record establishes that there was no irregularity in the mailing of the Notice of April 22, 2010, as it was mailed to correct address of record. It is noted that petitioner suggest that the notice of April 22, 2010 was not mailed since the Notice of Abandonment does not reference the notice of April 22, 2010 or the response filed November 11, 2009. Petitioner is reminded that an acceptable response was required to the Office action of October 5, 2009, since the response of November 11, 2009 was considered non-compliant by the Notice of April 22, 2010. The Notice of Non-Compliant Amendment simply gave applicant the opportunity to correct a previous reply to the outstanding October 5, 2009 Office action. Accordingly, there was no need to reference the notice of April 22, 2010 or the response filed November 11, 2009 in the Notice of Abandonment mailed June 6, 2010.

In any event, the following showing is required for non-receipt of an Office action:

> 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has adequately supported his claim of non-receipt with such evidence.

In view of the above, the Notice of Abandonment dated June 7, 2010 is hereby vacated.

The application is being referred to the Technology Center technical support staff of Art Unit 2917 for withdrawing the holding of abandonment and for appropriate action by the Examiner in the normal course of business on the response filed June 18, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
(401 S. 4th Street, Suite 2500)
LOUISVILLE KY 40202

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of :
Scott SANTORO :
Application No. 29/331,183 : ON PETITION
Filed: January 21, 2009 :
Attorney Docket No. ZK766-09069 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 27, 2010, 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 September 23, 2009, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 24, 2009.

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 of $1620; (3) the required statement of unintentional delay; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c) have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

The power of attorney and terminal disclaimer filed May 27, 2010 has been accepted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to the Office of Data Management.

David Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAHN AND MOODLEY, LLP
3333 Bowers Avenue
Suite 130
Santa Clara CA 95054

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Mickelle Weary et al. :
Application No. 29/331,294 : ON PETITION
Filed: January 22, 2009 :
Attorney Docket No. **26628** :

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.

This application became abandoned for failure to timely pay the issue fee on or before July 30, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 30, 2010. Accordingly, the date of abandonment of this application is July 31, 2010.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; 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) (4).

As to item (4)

Since the above-identified application is a design application a terminal disclaimer is required. As stated in 37 CFR 1.137(d) it requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(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 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 JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAHN AND MOODLEY, LLP
3333 Bowers Avenue
Suite 130
Santa Clara CA 95054

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of :
Mickelle Weary et al. :
Application No. 29/331,294 : ON PETITION
Filed: January 22, 2009 :
Attorney Docket No. **26628** :

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

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 $430, (2) the petition fee of $810; and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The petition is hereby **GRANTED**.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 to be processed 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
www.uspto.gov

LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK NY 10018-3738

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of :
Munari :
Application No. 29/331,306 : ON PETITION
Filed: January 23, 2009 :
Attorney Docket No. UD 051951-2 :

This is a decision on the request, filed March 8, 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) so that the Letters Patent will issue to the assignee.

The request is GRANTED.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK NY 10018-3738

MAILED
AUG 19 2011
OFFICE OF PETITIONS

Patent No. D617606 :
Issue Date: June 15, 2010 :
Application No. 29/331,315 : ON PETITION
Filed: January 23, 2009 :
Attorney Docket No. UD 051953-8 :

This is a decision on the petition filed August 5, 2011, a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
Northop, Melaney :
Application No. 29/331,495 : ON PETITION
Filed: January 27, 2009 :
Attorney Docket No. 0526937.00161 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 18, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. 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 for failure to reply in a timely manner to the Notice of Allowance, mailed April 6, 2010. Accordingly, the above-identified application became abandoned on July 7, 2010. A Notice of Abandonment was mailed on July 21, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(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.

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.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item(s) (1). The instant petition states that the $860.00 issue fee was enclosed herewith. However, a review of the USPTO financial records associated with the instant application , as well the Electronic Patent Application Fee Transmittal, only shows payment of the $1620.00 petition fee and the $140.00 terminal disclaimer fee. Further, although there is a general authorization on the Electronic Acknowledgement Receipt to charge any fees necessary, it does not specify fees under 37 CFR 1.18, Patent Post-Allowance Fees.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached Issue Fee Transmittal Form should be completed and returned with the renewed petition.

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

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

By hand: Customer 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

Enclosure: PTOL-85b

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

20873 7590 04/06/2010

Locke Lord Bissell & Liddell LLP
Attn: Michael Ritchie, Docketing
2200 Ross Avenue
Suite # 2200
DALLAS, TX 75201-6776

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/331,495	01/27/2009	Melaney Northrop	0526937.00161	6322

TITLE OF INVENTION: PET WATER BOWL

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$860	$0	$0	$860	07/06/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
LEE, SUSAN M	2917	D30-132000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

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

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

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
370 SEVENTEENTH STREET
SUITE 4700
DENVER CO 80202-5647

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Northrop, Melaney	:	
Application No. 29/331,495	:	ON PETITION
Filed: January 27, 2009	:	
Attorney Docket No. 0526937.00161	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed October 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 the Issue Fee Transmittal with payment of the $860.00 issue fee, (2) the petition fee of $1620.00 (previously submitted), 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
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Paper No.

MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET,
THIRD FLOOR
SAN JOSE CA 95113

MAILED

NOV 17 2010

OFFICE OF PETITIONS

In re Application of :
Avery et al. : DECISION ON
Application No. 29/331,698 : PETITION
Filed: January 30, 2009 :
Atty Docket No.LEAP-P0441.DES :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed September 21, 2010.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to file corrected drawings within three months of the mailing date, July 27, 2009, of the Notice of Allowability. This Office action set a three-month nonextendable statutory period for reply. No corrected drawings received, the above-identified application became abandoned on October 28, 2009. A courtesy Notice of Abandonment was mailed on November 10, 2009.

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 the required reply in the form of corrected drawings[1]; payment of the petition fee; and the required statement of unintentional delay.

However, the instant petition does not satisfy requirement (4) above. No terminal disclaimer and fee were submitted with the instant petition. A properly completed terminal disclaimer and terminal disclaimer fee are required for revival of this design application.

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

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

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

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

[1] The issue fee was timely paid. No publication fee was required.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES 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.

MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET,
THIRD FLOOR
SAN JOSE CA 95113

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Avery et al. : DECISION ON
Application No. 29/331,698 : PETITION
Filed: January 30, 2009 :
Atty Docket No.LEAP-P0441.DES :

This is a decision on the renewed PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed January 18, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file corrected drawings within three months of the mailing date, July 27, 2009, of the Notice of Allowability. This Office action set a three-month nonextendable statutory period for reply. No corrected drawings received, the above-identified application became abandoned on October 28, 2009. A courtesy Notice of Abandonment was mailed on November 10, 2009.

By decision mailed November 17, 2010, the initial petition to revive filed September 21, 2010 was dismissed. The petition included the required reply in the form of corrected drawings, payment of the petition fee, and the required statement of unintentional delay. However, the petition did not include the terminal disclaimer (and disclaimer fee) required to revive this design application.

On instant renewed petition, applicant filed a terminal disclaimer (and disclaimer fee).

The terminal disclaimer has been accepted and made of record.

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) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : June 6, 2011

Patent No. :D610665
Inventor(s) :Zhibo Weng
Issued :February 23, 2010
Title :FIRE BOWL

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.

Related Application Data with respect to the first sentence of the specification" and/or any amendments thereto, is used for printing data claimed under 35 USC 120. Since the first sentence of the specification does not refer to the additional information as reflected on applicants request nor does the Oath/ADS or any amendment refer to the application data as requested, correction is not warranted under Rule 1.322 or 1.323. See MPEP §1.78(a)(3).

In view of the forgoing your request in this matter is hereby denied. Any inquiry concerning this communication should be directed to Ms. A. Green at 571.272.9005.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9005

Michael F. Folise Esq.,
Black Lowe & Graham, PLLC
701 Fifth Avenue, Suite 4800
Seattle, WA 98104

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 07 2010

OFFICE OF PETITIONS

BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE NY 13202-1355

In re Application of
James David Branck, et al.
Application No. 29/331,816
Filed: February 2, 2009
Attorney Docket No. 193D088

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed April 6, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned at midnight July 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 corrected formal drawings, (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) 272-3213.

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

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED

MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Hidetoshi Yoda et al	:	DECISION GRANTING PETITION
Application No. 29/331,828	:	UNDER 37 CFR 1.313(c)(3) (CPA)
Filed: February 2, 2009	:	
Attorney Docket No. Q112048	:	

This is a decision on the petition filed May 9, 2011, which is being treated as a petition under 37 CFR 1.313(c)(3), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on March 28, 2011 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed May 9, 2011.

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

This matter is being referred to Technology Center AU 2913 for processing of the CPA and consideration of the concurrently filed statement requesting deletion of the name of a person who is not an inventor.

/Irvin Dingle/
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

DEC 08 2010

OFFICE OF PETITIONS

SOFER & HAROUN LLP.
317 MADISON AVENUE, SUITE 910
NEW YORK NY 10017

In re Application of
Gilbert, et al.
Application No. 29/331,885
Filed: February 4, 2009
Attorney Docket No. 1203-002

DECISION ON
PETITION

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed September 21, 2010.

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

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

The above application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability, mailed May 27, 2010. This Notice set a statutory period for reply of three months. Applicant filed drawings on August 30, 2010. However, the last day Applicants could have filed drawings was August 27, 2010. No drawings having been timely received, the application became abandoned on August 28, 2010. The Office mailed a Notice of Abandonment on September 10, 2010.

Petition under 37 CFR 1.181:

With the instant petition, applicants have included a postcard receipt dated August 30, 2010. However, as set forth above, this was not timely. The last day drawings could have been filed in the Office was August 27, 2010. Accordingly, the holding of abandonment was proper and the petition must be dismissed.

Petition under 37 CFR 1.137(b):

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of drawings, made the proper statement of unintentional delay, and submitted a terminal disclaimer.

The $810 petition fee has been charged to Deposit Account No. 19-2825, as authorized.

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CALFEE, HALTER & GRISWOLD LLP
1400 KEYBANK CENTER
800 SUPERIOR AVENUE
CLEVELAND OH 44114

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of :
Franco F. Daino :
Application No.29/331,928 : ON PETITION
Filed: February 5, 2009 :
Attorney Docket No. 27475/11828 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed February 4, 2011, to revive the above-identified application.

The petition is **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 s to timely pay the issue and publication fees on or before January 31, 2011 as required by the Notice of Allowance and Fee(s) Due mailed October 29, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 1, 2011. The Notice of Abandonment was mailed March 7, 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).

The required reply was not filed with instant petition. 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue. The filing of a continued prosecution application (CPA) request without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to the pay the issue fee or any portion thereof.

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 Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CALFEE, HALTER & GRISWOLD LLP
1400 KEYBANK CENTER
800 SUPERIOR AVENUE
CLEVELAND OH 44114

MAILED
MAR 3 1 2011
OFFICE OF PETITIONS

In re Application of	:	
Franco F. Daino	:	
Application No. 29/331,928	:	DECISION GRANTING PETITIONS
Filed: February 5, 2009	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 27475/11828	:	37 CFR 1.313(c)(3)

This is a decision on the renewed petition, filed March 29, 2011, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

The application became abandoned for failure to timely pay the issue fee on or before January 31, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 29, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 1, 2011. A Notice of Abandonment was mailed on March 7, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $860 issue fee, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of October 29, 2010 is accepted as being unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(3):

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on March 29, 2011, 2010 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed February 4, 2011.

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

This matter is being referred to Technology Center AU 2913 for processing of the CPA and consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

7-12-2011

Patent No : D632,391 S
Ser. No. : 29/331,932
Inventor(s) : Eliyahu Gitman
Issued :February 8, 2011

Re: Request for Certificate of Correction

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

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

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

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Max Moskowitz
Ostrolenk Faber LLP
1180 Avenue of the Americas
New York, NY 10036-8403

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED

AUG 23 2011

OFFICE OF PETITIONS

In re Patent No. D632391 :
Issue Date: February 8, 2011 :
Application No. 29/331,932 : ON PETITION
Filed: February 5, 2009 :
Attorney Docket No. D/826-29 :

This is a decision on the petition filed July 19, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are not 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.

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(i)

Petitioner has failed to provide (B). Petitioner has requested that the assignee "Scalpal LLC., (US)" be added to the front page of the patent. However a review of the record shows that the

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

certificate of correction provided does not match the assignment records. The records show "Scalpal, LLC., **Israel**".

As such if petitioner would like to add the assignee, a new certificate of correction referencing Israel and not the United States must be submitted.

As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema Grant
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Patent No. D632391 :
Issue Date: February 8, 2011 :
Application No. 29/331,932 : ON PETITION
Filed: February 5, 2009 :
Attorney Docket No. D/826-29 :

This is a decision on the "RENEWED PETITION UNDER 37 CFR §1.183" filed October 7, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are not 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.

On renewed petition, petitioner contends that the Scalpal LLC is a Delaware corporation and as such by definition a United States address and presence. Further petitioner contends the certificate of correction does not need to "match" the address in the assignment, as it is sufficient that it matches the priority document.

Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

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

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(i)

Petitioner has failed to provide (B). Petitioner has requested that the assignee "Scalpal LLC., (US)" be added to the front page of the patent. However a review of the assignment document provided by patentee and recorded on February 5, 2009 shows that the certificate of correction provided does not match the assignment records. The records show "Scalpal, LLC., **Israel**".

Petitioner's argument has been considered but not determined to be persuasive. *Assignment data printed on the patent will be based solely on the information so supplied.* See MPEP 307. Assignment information printed on a patent is not updated after a patent is issued, and may not be reflective of the assignment recorded in the Office subsequent to the 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.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema Grant

Charlema Grant
Attorney Advisor
Office of Petitions

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SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING MD 20910

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JUL 18 2011

OFFICE OF PETITIONS

In re Application of :
Maurizio Placuzzi :
Application No. 29/331,977 : ON PETITION
Filed: February 6, 2009 :
Attorney Docket: 6334

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed July 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 submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed March 10, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 11, 2011. The Notice of Abandonment was mailed June 23, 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) (4).

All design application petitions must be accompanied with a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) as required by 37 CFR 1.137(d). A copy of the terminal disclaimer form PTO/SB/63 is enclosed for your convenience.

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

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

By 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 Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: Terminal Disclaimer to Accompany Petition (PTO/SB/63)

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 11 2011

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SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING MD 20910

In re Application of :
Maurizio Placuzzi :
Application No. 29/331,977 : DECISION ON PETITION
Filed: February 6, 2009 :
Attorney Docket No. 6334 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 26, 2011, to revive the above-identified design application.

The petition is **GRANTED.**

The application became abandoned for failure to timely pay the issue fee on or before June 10, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 10, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 11, 2011. A Notice of Abandonment was mailed on June 23, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $430 issue fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowability is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA CANADA

In re Application of

Roberts, et al.

Application No. 29/332,126

Filed: February 9, 2009

Attorney Docket No. DWW-01-09-DP

MAILED

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OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed September 2, 2010, in 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)."

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee Due mailed May 10, 2010, which set a statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed on August 25, 2010.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (4) above.

As to item (4), the terminal disclaimer was not found with the petition papers. The subject application is a **design** application, therefore; a terminal disclaimer is required in order to revive the application. Any renewed petition filed must be accompanied by the completed terminal disclaimer form, which is enclosed for petitioner's convenience. **Pursuant to 37 CFR 1.137(d),** the terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted from this application that is equivalent to the period of abandonment of the application.

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

By mail: Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Terminal Disclaimer to Accompany Petition"

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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA CANADA

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MAY 13 2011
OFFICE OF PETITIONS

In re Application of

Roberts, et al. :

Application No. 29/332,126

: DECISION ON PETITION

Filed: February 9, 2009

:

Attorney Docket No. DWW-01-09-DP

This is a decision on the petition under 37 CFR §1.137(b), filed February 16, 2011, in 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)."

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee Due mailed May 10, 2010, which set a statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed on August 25, 2010.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (4) above.

As to item (4), the terminal disclaimers filed February 16, 2011, are disapproved because they are not signed by a party set forth in 37 CFR 1.321(b) which states, in pertinent part, that:

(b) An applicant or assignee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the grantee and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must:

(1) Be signed:

(i) By the applicant, or

(ii) If there is an assignee of record of an undivided part interest, by the applicant and such assignee, or

(iii) If there is an assignee of record of the entire interest, by such assignee, or

(iv) By an attorney or agent of record;

Mr. Gordon Thomson has signed all of four of the terminal disclaimers filed February 16, 2011, but it does not appear that Mr. Thomson was ever given power of attorney in the application. Thus, Mr. Thomson is a registered patent practitioner, but is not of record in this application. The renewed petition must be accompanied by terminal disclaimers that are signed by one of the parties provided in 37 CFR 1.321(b) cited above.

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

By mail: Mail Stop Petitions
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Box 1450
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By facsimile: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Terminal Disclaimer to Accompany Petition"

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J. GORDON THOMSON
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VICTORIA BC V8V 3Z1 CA CANADA

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Application of

Roberts, et al.

Application No. 29/332,126

Filed: February 9, 2009

Attorney Docket No. DWW-01-09-DP

: DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed July 5, 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 Notice of Allowance and Issue Fee Due mailed May 10, 2010, which set a statutory period for reply of three (3) months from its mailing date. A Notice of Abandonment was mailed on August 25, 2010.

The issue fee was received September 2, 2010.

The terminal disclaimers filed July 5, 2011, are noted.

The application 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

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MARK R. MALEK
ZIES WIDERMAN & MALEK
202 N. HARBOR CITY BOULEVARD
SUITE 101
MELBOURNE FL 32935

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DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Brian E. Marsh :
Application Number: 29/332289 : DECISION ON PETITION
Filing Date: 02/12/2009 :
Attorney Docket Number: 29.3807 :
:

This is a decision on the petition filed on October 18, 2010, 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 mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on August 21, 2010, for failure to timely file corrected drawings in response to the Notice of Allowability For A Design Application mailed on May 20, 2010, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on September 16, 2010.

Receipt of the corrected drawings filed on October 18, 2010 is acknowledged.

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 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 continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

The petition lacks item (4). In this regard, the terminal disclaimer fee has not been paid in the proper amount, which is $70.00, for a small entity, rather than the $65.00 submitted with the petition. As no authorization to charge counsel's deposit account has been provided, the petition must be dismissed pending submission of the additional $5.00 due.

37 CFR 1.22(a) states that patent fees and charges payable to the United States Patent and Trademark Office are required to be paid in advance; that is, at the time of requesting any action by the Office for which a fee or charge is payable.

Accordingly, the petition is dismissed without prejudice to reconsideration pending submission of the additional $5.00 due.

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

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

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

By hand: Customer Service Window
Mail Stop Petition

Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via the EFS-Web system of the USPTO.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ZIES WIDERMAN & MALEK
1990 W. NEW HAVEN AVENUE, SUITE 201
MELBOURNE FL 32904

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of :
Brian E. Marsh :
Application Number: 29/332289 : DECISION ON PETITION
Filing Date: 02/12/2009 :
Attorney Docket Number: 29.3807 :
:

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

The petition is **GRANTED**.

The application became abandoned on August 21, 2010, for failure to timely file corrected drawings in response to the Notice of Allowability For A Design Application mailed on May 20, 2010, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on September 16, 2010. The petition filed on October 18, 2010 was dismissed on December 20, 2010. The subject renewed petition was filed on December 30, 2010.

Receipt of the additional fee amount due is acknowledged.

The terminal disclaimer filed on October 18, 2010, under 37 CFR 1.137(c) has been entered and made of record. Effective September 8, 2000, 37 CFR 1.137(c)(1) has been added to state that a terminal disclaimer filed pursuant to this rule must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: 1) the period of abandonment of the application; or 2) the period extending beyond twenty years from the date on which the application for patent was filed in the United States, or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c).[1] Accordingly, the period of the terminal disclaimer filed on October 18, 2010, will be equivalent to the lesser period (1) or (2), as noted above, for this application.

[1] 65 Fed. Reg. 54,674 (2000).

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be 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.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cf:

MARK R. MALEK
ZIES WIDERMAN & MALEK
202 N. HARBOR CITY BOULEVARD
SUITE 101
MELBOURNE FL 32935

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES W. MILLER, ATTORNEY
527 MARQUETTE AVENUE
SUITE 1960, RAND TOWER
MINNEAPOLIS MN 55402

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Patent No. D615251 :
Issue Date: May 4, 2010 :
Application No. 29/332,297 : NOTICE
Filed: February 12, 2009 :
Attorney Docket No. 133.1.7/USA :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 21, 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. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK NY 10023

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Ruven Gersh :
Application No. 29/332,459 : DECISION ON PETITION
Filed: February 17, 2009 :
Attorney Docket No. 0902309 (0581-031D) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 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 July 8, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed April 8, 2010. Accordingly, the date of abandonment of this application is July 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form corrected formal drawings , (2) the petition fee of $810; and (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 the examination or status of this application should be directed to the Office of Data Management at their hotline 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT R. WATERS, ESQ.
WATERS LAW OFFICE, PLLC
633 SEVENTH STREET
HUNTINGTON, WV 25701

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Xiao Hui Yang :
Application No. 29/332,708 : ON PETITION
Filed: February 24, 2009 :
Attorney Docket No.: 380PA1108 :

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

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

The petition is **GRANTED**.

The application became abandoned for a failure to timely submit corrected drawings on or before August 5, 2009, as required by the Notice of Allowability, mailed May 5, 2009. Accordingly, the date of abandonment of this application is August 6, 2009. A Notice of Abandonment was mailed on September 1, 2009. On June 18, 2010, the present petition was filed. Petitioner explains that a response was not filed to the May 5, 2009 Notice of Allowability since the required drawings were filed prior to the mailing of the Notice, on April 27, 2009.

Petitioner is remineded that pursuant to 35 U.S.C. 133, "[u]pon 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 application, 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 satisfactory of the Director that such delay was unavoidable.

The evidence of record does not demonstrate that such delay in filing a response to the Notice was unavoidable within the meaning of the rule. Since the application became abandoned by

operation of law on August 6, 2009, the present petition under the provisions of 37 CFR 1.137(b) is necessary.

The petition is found to 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) an adequate statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer filed June 18, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to the Office of Data Management to oversee a review of the drawings filed April 27, 2009 and to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BRIAN W. FOXWORTHY
714 LYNDON LANE, SUITE 6
LOUISVILLE, KY 40222

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ———

DATE : 10/4/10

TO SPE OF : ART UNIT 2911

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/333,022 Patent No.: D598633 S

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: Please print original drawings dated 3/2/09 from the original application papers, as indicated on the Notice of Allowance dated 5/7/09.

CATHRON C. BROOKS
SUPERVISORY PATENT EXAMINER 2911

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN A. O'TOOLE
P.O. BOX 1113
MINNEAPOLIS MN 55440

MAILED

FEB 16 2012

OFFICE OF PETITIONS

In re Application of
Nicholas D. Kovich et al.
Application No. 29/333,082
Filed: March 3, 2009
Attorney Docket No. D6065US-D1

ON PETITION

This is a decision on the petition filed January 26, 2012, under 37 CFR 1.137(a)[1], to revive the above-identified application.

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

This application became abandoned October 25, 2011 for failure to pay the issue fee in response to the Notice of Allowance mailed July 22, 2011 and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed November 4, 2011.

Petitioner argues that a response was in fact timely filed on September 23, 2011. In support of petitioner's claim, *inter alia*, is a copy of the Issue Fee Transmittal which includes a certificate of facsimile transmission dated September 23, 2011.

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, andrequires no more or greater care or diligence than is generally used

[1] 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.

(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)).

> and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

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.[3]

In view of the certificate of facsimile transmission, pursuant to 37 CFR 1.8, it is concluded that the response to the Notice of Allowance was in fact timely filed on September 23, 2011.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Maynard Cooper & Gale, PC
1901 Sixth Avenue North
2400 Regions/Harbert Plaza
BIRMINGHAM AL 35203-2618

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of :
Michael C. KEEL et al. :
Application No. 29/333,095 : ON PETITION
Filed: March 3, 2009 :
Attorney Docket No. 11267-0009 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 25, 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 of Allowability mailed December 3, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 4, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected drawings; (2) the petition fee of $1620; (3) the required statement of unintentional delay; and (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c) have been received. Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

The application file is being referred to the Office of Data Management.

David Bucci
Petitions Examiner
Office of Petitions

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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Peacock Myers, P.C.
201 Third Street, N.W.
Suite 1340
Albuquerque, NM 87102

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
Wendell L. Jones et al. :
Application No. 29/333,130 : DECISION ON PETITION
Filed: March 3, 2009 :
Attorney Docket No. 32503-1001-D2 :

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before August 18, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 18, 2009. Accordingly, the date of abandonment of this application is August 19, 2009. A Notice of Abandonment was mailed on January 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 the issue fee of $430 and Continued Prosecution Application (CPA), (2) the petition fee of $810, (3) a proper statement of unintentional delay and, (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the issue fee and CPA is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

This application is being referred to Technology Center AU 2915 for appropriate action by the Examiner in the normal course of business on the reply received September 22, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : June 28,2011

In re Application of :

Elizabeth Dupre

Application No : 29333203

Filed : 04-Mar-2009

Attorney Docket No : PAG-2001US01

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 28,2011

The request is **APPROVED.**

The request was signed by Kevin M. Farrell (registration no. 35505) on behalf of all attorneys/agents associated with Customer Number 27723 . All attorneys/agents associated with Cusotmer Number 27723 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	Elizabeth P. Dupre
Name2	
Address 1	87 Bartlett Rd.
Address 2	
City	Kittery Point
State	ME
Postal Code	03905
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	29333203
Filing Date	04-Mar-2009
First Named Inventor	Elizabeth Dupre
Art Unit	2914
Examiner Name	DAVID MULLER
Attorney Docket Number	PAG-2001US01
Title	SEPTIC VENT

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 27723

The reason(s) for this request are those described in 37 CFR:

10.40(c)(1)(iv)

10.40(c)(1)(vi)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:

Name	Elizabeth P. Dupre
Address	87 Bartlett Rd.
City	Kittery Point
State	ME
Postal Code	03905

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Kevin M. Farrell/
Name	Kevin M. Farrell
Registration Number	35505

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

In re Application of
SAFT, KEITH D. et al. :
Application No. 29/333,228 :
Filed: March 4, 2009 :
Attorney Docket No.: 085804.715013 :

FEB 17 2011

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action, received in the United States Patent and Trademark Office (USPTO) on January 11, 2011.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue fee and Publication fee as required by the Notice of Allowance, mailed July 29, 2010 which set forth a three (3) month statutory period for reply. The Notice of Abandonment was mailed on November 12, 2010.

Petitioner attests that the Notice of Allowability mailed on July 29, 2010 was not received. Petitioner also included a statement that the Notice was not received.

In view of the foregoing, the holding of abandonment for failure to timely submit the issue fee is hereby withdrawn and the application is restored to pending status. The application will be forwarded to the Technology Center for the remailing of the Notice of Allowance.

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

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ZPS)
136 S. Wisconsin Street
Fort Washington, WI 53074

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Justin L. Voden	:	
Application No. 29/333,251	:	DECISION ON PETITION
Filed: March 5, 2009	:	TO WITHDRAW
Attorney Docket No. JLV74620.132	:	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 20, 2010.

The request is **APPROVED**.

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

All future correspondence will be directed to the first named inventor Justin L. Voden at the address indicated below.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Justin L. Voden**
S70 W35543 Road X
Eagle, WI 53119

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
29/333,251	03/05/2009	Justin L. Voden	JLV74620.132

CONFIRMATION NO. 9854

26629
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (ZPS)
136 S WISCONSIN ST
PORT WASHINGTON, WI 53074

POWER OF ATTORNEY NOTICE

OC000000042852502

Date Mailed: 08/02/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2010.

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

/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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Alexandria, VA 22313-1450
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NIEL NICKOLAISEN
128 SOUTH
850 EAST
CENTERVILLE UT 84014

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Application of :
Micah J. Nickolaisen :
Application No. 29/333,316 : DECISION ON PETITION
Filed: March 6, 2009 :
Title: Cover For A Snowboard Or A Skateboard :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed March 17, 2009 and the Notice of Incomplete Reply (Nonprovisional) mailed March 23, 2009. The original 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 18, 2009. A Notice of Abandonment was mailed September 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $65.00 Surcharge fee, (2) the petition fee of $810.00, (3) a proper statement of unintentional delay and (4) a Terminal Disclaimer and fee of $70.00.

The request for a terminal disclaimer is accepted and has been made of record.

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

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

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

Joan Olszewski
Petition Examiner
Office of Petitions

cc: Micah J. Nickolaisen
Halo Recreation 2 Enterprise, Suite 1213
Aliso Viejo, CA 92656

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TAFT STETTINIUS & HOLLISTER LLP
ONE INDIANA SQUARE, SUITE 3500
INDIANAPOLIS IN 46204-2023

MAILED

AUG 2 7 2010

OFFICE OF PETITIONS

In re Application of :
Clemmons, Jennings, Meyer, Dale, :
Jones, Swan, Godley, Kerr, and Wingate :
Application No. 29/333,388 : DECISION ACCORDING STATUS
Filed: March 9, 2009 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 19691-0007 :
For: **ANIMAL CAGE**

This is in response to the petition under 37 CFR 1.47(a), filed July 17, 2009.

The petition is **GRANTED**.

The above-identified 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.

The above-identified application was filed on March 9, 2009, without an executed oath or declaration or filing fee. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on March 23, 2009, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(a) was filed on May 18, 2009, and dismissed by a decision mailed June 19, 2009.

Petitioner has shown that inventors Clemmons and Swan have refused to execute the declaration and join the above-identified application The above-identified 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 Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Patent Application Processing for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

June 1, 2011

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Brouwers, David, et al	:	**DECISION ON PETITION**
Application No. 29/333,416	:	
Filed: 03/09/2009	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 89730-761143	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) July 21, 2010.

The petition is **GRANTED**.

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

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

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

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

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/333,416	03/09/2009	David Brouwers	89730-761143	4439

7590 06/10/2011

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER	
FLUEGEMAN, DEANNA L	
ART UNIT	**PAPER NUMBER**
2911	
NOTIFICATION DATE	**DELIVERY MODE**
06/10/2011	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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

June 8, 2011

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Brouwers, David et al	:	**DECISION ON PETITION**
Application No. 29/333,416	:	
Filed: 03/09/2009	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 89730-761143	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) July 21, 2010.

The petition is **GRANTED**.

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

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

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

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

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/333,418	03/09/2009	David Brouwers	89730-761145	4466

20350 7590 06/28/2011

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER	
FLUEGEMAN, DEANNA L	
ART UNIT	**PAPER NUMBER**
2911	

NOTIFICATION DATE	DELIVERY MODE
06/28/2011	ELECTRONIC

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

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

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

Docket@kilpatricktownsend.com
ipefiling@kilpatricktownsend.com
jlhice@kilpatrick.foundationip.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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June 25, 2011

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of :
David Brouwers et al. : **DECISION ON PETITION**
Application No. 29333418 :
Filed: 03/09/2009 :
Attorney Docket No. **89730-761145** :

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) July 20, 2010.

The petition is **DISMISSED.**

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

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

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

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☑

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE CA 95113

MAILED

SEP 2 8 2010

OFFICE OF PETITIONS

In re Application of	:	
Christopher L. Hawker	:	
Application No. 29/333,433	:	DECISION ON PETITION
Filed: March 9, 2009	:	
Attorney Docket No. CTK.LEEY.DP1	:	

This is a decision on the petition under 37 CFR 1.182, filed, August 27, 2010, to change the name of inventor "Chris Hawker" to – Christopher L. Hawker --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to Terri Johnson at (571) 272-2991. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to the Office Data Management for further processing.

/Terri Johnson/
Terri Johnson
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
29/333,433	03/09/2009	2916	230	CTK.LEEY.DP1	1	1

CONFIRMATION NO. 4630

CORRECTED FILING RECEIPT

24943
INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

OC000000043656897

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)

Christopher L. Hawker, Columbus, OH;

Power of Attorney: The patent practitioners associated with Customer Number 24943

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/19/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 29/333,433**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

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

Title

PEELER

Preliminary Class

D07

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
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LAW OFFICE OF KYLE FLETCHER
P.O. Box 11735
CHARLOTTE NC 28220

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Steve Rhodes :
Application No. 29/333,517 :
Filed: March 11, 2009 :
Attorney Docket No. 07-075-PTO :

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 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 Allowability mailed on August 10, 2009, which set a period for reply of three (3) months. Accordingly, the application became abandoned on November 11, 2009. A Notice of Abandonment was mailed on November 24, 2009.

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 and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The reply to the petition decision mailed March 23, 2010 was received on March 25, 2010.

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 Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHARTER IP, LLC
P.O. BOX 64
The Plains VA 20198

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Friedman et al. :
Application No. 29/333,548 : DECISION ON PETITION
Filed: March 11, 2009 :
Attorney Docket No. 8602/0028PUS1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 17, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

Any request for reconsideration 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 application became abandoned for failure to timely submit the issue fee on or before April 28, 2010, as required by the Notice of Allowance, mailed January 28, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 29, 2010. A Notice of Abandonment was mailed on May 7, 2010. A petition filed under 37 CFR 1.137(b) on May 2, 2010 was dismissed on June 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $430 issue fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110308

DATE : March 08, 2011

TO SPE OF : ART UNIT 2912

SUBJECT : Request for Certificate of Correction on Patent No.: D616054

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:

/STELLA REID/
Supervisory Patent Examiner.Art Unit 2912

UNITED STATES 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
NOV 30 2010
OFFICE OF PETITIONS

In re Application of :
Steven David Wilson et al. :
Application No. 29/333,603 : DECISION ON PETITION
Filed: March 12, 2009 : TO MAKE SPECIAL UNDER
Attorney Docket No. 15913-000003/US : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 8, 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 by an attorney on behalf of inventor Omer Leon Hageniers attesting to his age. The above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2917 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : **D609547**
Ser. No. **29/333674**
Inventor(s) : **PELL, WILLIAM LEE**
Issued : **02/09/2010**
Title : **HAMMER HEAD**
Docket No. : **TE 09-3**

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

Frenkel & Associates
3975 University Drive
Suite 330
Fairfax, VA 22030

OL

29/333674

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : D609547
Inventor(s) : Pell, William Lee
Issued : 2/9/10
For : Hammer Head

Re: Request for Certificate of Correction

Reconsideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Granting of a petition under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error in the Assignee, when the correct name of the assignee was not provided in accordance with either section 3.81(a) or (b) (either no name or an incorrect name was provided in item 3 of the Issue Fee Transmittal, when the assignment had been recorded or submitted for recordation at the time the issue fee was paid, including after issuance of the patent.

A petition to correct the Assignee, under 37 CFR 1.183 should include:

(1) the petition fee set forth in 37 CFR 1.117(h) (currently $130);
(2) the correct name and address of the assignee; and
(3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

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

If, the petition under 37 CFR 1.183, is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), due to the mistake in not complying with CFR 3.81.

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

RoChaun Hardwick
Decisions & Certificates
of Correction Branch
(571) 272-0470

FRENKEL & ASSOCIATES
3975 UNIVERSITY DRIVE SUITE 330
FAIRFAX, VA 22030

RMH

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

FRENKEL & ASSOCIATES
3975 UNIVERSITY DR., STE 330
FAIRFAX, VA 22030

MAILED

FEB 01 2012

OFFICE OF PETITIONS

In re Patent No. D609,547	:	
Issue Date: February 9, 2010	:	
Application No. 29/333,674	:	ON PETITION
Filed: March 13, 2009	:	
Attorney Docket No. TE 09-3	:	

This is a decision on the petition filed December 14, 2011, and supplemented on January 24, 2012, 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) 272-0602. 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 to include the additional assignee, Chen, Kun-Chen, No. 25, Chongyi 1st Rd., Dajia Chen, Taichung Hsein, Taiwan, R.O.C., as indicated on the Notice of Recordation of Assignment Document (022396/0770) recorded on March 13, 2009.

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF JERRY D. HAYNES , P.A
P.O. Box 350392
Fort Lauderdale FL 33335

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Application of :
Haugland :
Application No. 29/333,684 : ON PETITION
Filed: March 13, 2009 :
Attorney Docket No. HAUG001 :
For: VEHICLE THEME BED

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 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)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the non-final Office action, mailed January 11, 2010, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) or reply being received, this application became abandoned on April 12, 2010. A Notice of Abandonment was mailed on August 5, 2010.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (4) above.

37 CFR 1.137(d)(1) requires that a petition under 37 CFR 1.137(b) be accompanied by a terminal disclaimer and fee in a design application, regardless of the design application's filing date. As this application is a design application, petitioner is required to submit a terminal disclaimer and required fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

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)

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF JERRY D. HAYNES , P.A
P.O. Box 350392
Fort Lauderdale FL 33335

MAILED

AUG 09 2011

OFFICE OF PETITIONS

In re Application of :
Haugland :
Application No. 29/333,684 : ON PETITION
Filed: March 13, 2009 :
Attorney Docket No. HAUG001 :
For: VEHICLE THEME BED

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

The petition is **granted**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed January 11, 2010, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) or reply being received, this application became abandoned on April 12, 2010. A Notice of Abandonment was mailed 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 an amendment [filed on April 25, 2011] (2) the petition fee of $810.00; (3) a proper statement of unintentional delay, and (4) a terminal disclaimer accompanied by the required $70.00 fee.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to Technology Center G.A.U. 2913 for consideration of the amendment filed on April 25, 2011.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

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NOV 07 2011
OFFICE OF PETITIONS

In re Application of :
Duane Davis :
Application No. 29/333,810 :
Filed: March 16, 2009 :
Attorney Docket No. 6552P3382DES :

DECISION ON PETITION

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 **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 submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed May 27, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 28, 2010. A Notice of Abandonment was mailed on September 10, 2010.

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

As to item (4) since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365 (c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $80 is required. If the terminal disclaimer is signed by the assignee, an assignee must comply with the requirements of 37 CFR 3.73(b). Refer to form no. PTO/SB/63.

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

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DEC 29 2011

OFFICE OF PETITIONS

In re Application of :
Duane Davis :
Application No. 29/333,810 :
Filed: March 16, 2009 :
Attorney Docket No. 6552P3382DES :

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed May 27, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 28, 2010. A Notice of Abandonment was mailed on September 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $930, (3) a proper statement of unintentional delay and, (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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JUL 20 2011
OFFICE OF PETITIONS

LERNER GREENBERG STEMER, LLP
PO BOX 2480
HOLLYWOOD, FL 33022-2480

In re Application of :
Matthias Kulla, et al :
Application No. 29/333,976 : ON PETITION
Filed: March 18, 2009 :
Attorney Docket No. PORD-MU 1142 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 8, 2011 to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notice of Abandonment mailed February 28, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice) mailed, July 22, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is longer). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 23, 2010.

Petitioner asserts the Notice of Abandonment mailed February 22, 2011 be withdrawn as petitioner never received the Notice of Non-Compliant amendment (Notice), mailed June 22, 2010.

To support this assertion petitioner has submitted: (1) a statement from petitioner stating that the Office communication was not received by the inventor and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, it is concluded that petitioner never received the non-final Office action, mailed June 22, 2010.

In view of the granting of the petition to withdraw the holding of abandonment, the petition fees filed under 37 CFR 1.137(a) is deemed unnecessary and will be refunded to petitioner's deposit account in due course.

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.

Since petitioner has filed the required response to the Notice of Non-Compliant Amendment this application is being referred back to the Technology Center Technical support Staff Art Unit 2917 for the re-mailing of the Office action of June 22, 2010 and resetting the period for reply.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

JACKSON INTELLECTUAL PROEPRTY GROUP PLLC
106 STARVALE LANE
SHIPMAN VA 22971

In re Application of	:	
Dapeng Wu	:	
Application No. 29/334,013	:	DECISION ON REQUEST FOR REFUND
Filed: March 19, 2009	:	
Attorney Docket No. 7002.107	:	

This is a decision on the Request For Refund filed August 13, 2010.

The request is **DISMISSED**.

Applicant requests a refund of the petition fee of $400.00 submitted on May 6, 2010.

The request for refund states that "The Letters Patent issued on October 13, 2009 and was duly forwarded to the attorney of record (now disbarred), who refused to provide the assignee with the Letters Patent Despite the fact the assignee both instructed and paid the prior attorney of record to do so. Thus, the undersigned hereby requested on May 6, 2010 that U.S. Patent No. D601,831 be reprinted and the Letters Patent be forwarded to the undersigned, the new attorney of record, ..."

However, Office records show that the Letters Patent on October 13, 2009 was mailed to the correct address of record at the time of mailing. Therefore, the request for refund of the petition fee paid on May 6, 2010, is dismissed, as the petition was granted on June 22, 2010.

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Maynard Cooper & Gale, PC
1901 Sixth Avenue North
2400 Regions/Harbert Plaza
BIRMINGHAM AL 35203-2618

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of :
Keel, et al. :
Application No. 29/334,052 : ON PETITION
Filed: March 19, 2009 :
Attorney Docket No. 11267-0006 :

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

The petition is **GRANTED**.

This application became abandoned March 16, 2010 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed December 15, 2009. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed March 31, 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.

This application is being forwarded to the Data Management Division for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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THE PROCTER & GAMBLE COMPANY
GLOBAL LEGAL DEPARTMENT - IP
SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED

APR 21 2011

OFFICE OF PETITIONS

In re Application of :
Sheppard et al. :
Application No. 29/334,109 : DECISION ON PETITION
Filed: March 20, 2009 :
Attorney Docket No. D-01485 / 9116-963 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely to submit Corrected Drawings on or before January 18, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed October 18, 2010. Accordingly, the date of abandonment of this application is January 19, 2011. A Notice of Abandonment was mailed January 31, 2011.

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 (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer and fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. A terminal disclaimer cannot be signed by an attorney in representative capacity.

Petitioner has submitted a terminal disclaimer naming an improper assignee. According to USPTO records The Proctor & Gamble Company is not the current assignee in the above-identified application.

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

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
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SYCAMORE BUILDING - 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED
JUN 28 2011
OFFICE OF PETITIONS

In re Application of	:	
Sheppard et al.	:	
Application No. 29/334,109	:	DECISION ON PETITION
Filed: March 20, 2009	:	
Attorney Docket No. D-01485 / 9116-963	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before January 18, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed October 18, 2010. Accordingly, the date of abandonment of this application is January 19, 2011. A Notice of Abandonment was mailed January 31, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Corrected Drawings, (2) the petition fee of $1,620.00 (previously paid March 4, 2011); (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and required $140.00 fee (previously paid March 4, 2011).

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the Corrected Drawings submitted 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
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SUSAN AHN
19801 S. VERMONT AVE.
TORRANCE CA 90502

MAILED

MAR 11 2011

OFFICE OF PETITIONS

In re Application of
Frank Yang et al
Application No. 29/334,145
Filed: March 20, 2009
Attorney Docket No. 09020US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before November 22, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 20, 2010, which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed on December 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 the $430.00 issue fee, (2) the petition fee of $810.00, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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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Jones Day
Attention: Peter G. Thurlow
222 East 41st Street
New York NY 10017

MAILED
SEP 02 2010
OFFICE OF PETITIONS

In re Application of :
David So :
Application No. 29/334,321 : ON PETITION
Filed: March 24, 2009 :
Attorney Docket No. 11385-028-999 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 17, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed December 18, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 19, 2010. The Notice of Abandonment was mailed April 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 replacement drawings; (2) the petition fee of $810; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record.

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

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

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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OCT 25 2010

OFFICE OF PETITIONS

Jones Day
Attention: Peter G. Thurlow
222 East 41st Street
New York NY 10017

In re Application of :
David So :
Application No. 29/334,322 : DECISION ON PETITION
Filed: March 24, 2009 :
Attorney Docket No. **11385-029-999** :

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

The petition is **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 submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed December 23, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 24, 2010.

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

In regard to item (4) Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any

patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

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.

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: PTO/SB/63

PTO/SB/63 (07-09)
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TERMINAL DISCLAIMER TO ACCOMPANY PETITION	Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the abov e-identified applic ation is a uti lity or plant appl ication, the less er of: (a) the period of abandonment of the application; or (b) the per iod ex tending bey ond twenty years from the date on which the above-identified application was filed in the United States or, if the appl ication contains a specific reference to an earlier filed application(s) und er 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest s uch application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 199 5, or a des ign application, that conta ins a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.
2. ☐ The undersigned is an attorney or agent of record. Registration Number_____.

_____ Signature

_____ Date

_____ Typed or Printed Name

_____ Telephone Number

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. 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 CO MPLETED 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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MAILED

JAN 11 2011

OFFICE OF PETITIONS

Jones Day
Attention: Peter G. Thurlow
222 East 41st Street
New York NY 10017

In re Application of :
David So :
Application No. 29/334,322 : DECISION ON PETITION
Filed: March 24, 2009 :
Attorney Docket No. 11385-029-999 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 10, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed December 23, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 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 corrected drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 further processing in accordance with this decision on petition.

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

MAILED

OCT 25 2010

OFFICE OF PETITIONS

Jones Day
Attention: Peter G. Thurlow
222 East 41st Street
New York NY 10017

In re Application of	:	
David So	:	
Application No. 29/334,323	:	DECISION ON PETITION
Filed: March 24, 2009	:	
Attorney Docket No. **11385-030-999**	:	

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

The petition is **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 submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed December 23, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 24, 2010.

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

In regard to item (4) Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of and

patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

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.

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: PTO/SB/63

PTO/SB/63 (07-09)
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TERMINAL DISCLAIMER TO ACCOMPANY PETITION	Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the abov e-identified applic ation is a uti lity or plant appl ication, the less er of: (a) the period of abandonment of the application; or (b) the per iod ex tending bey ond twenty years from the date on which the above-identified application was filed in the United States or, if the appl ication contains a specific reference to an earlier filed application(s) und er 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest s uch application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 199 5, or a des ign application, that conta ins a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

2. ☐ The undersigned is an attorney or agent of record. Registration Number_____.

_____ _____
Signature Date

_____ _____
Typed or Printed Name Telephone Number

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. 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 CO MPLETED 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.

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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JAN 18 2011

OFFICE OF PETITIONS

Jones Day
Attention: Peter G. Thurlow
222 East 41st Street
New York NY 10017

In re Application of :
David So :
Application No. 29/334,323 : DECISION ON PETITION
Filed: March 24, 2009 :
Attorney Docket No. 11385-030-999 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 10, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed December 23, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 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 corrected drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 further processing in accordance with this decision on petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 25 2010

OFFICE OF PETITIONS

Jones Day
Attention: Peter G. Thurlow
222 East 41st Street
New York NY 10017

In re Application of :
David So :
Application No. 29/334,324 : DECISION ON PETITION
Filed: March 24, 2009 :
Attorney Docket No. **11385-031-999** :

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

The petition is **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 submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed December 23, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 24, 2010.

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

In regard to item (4) Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that

contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

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.

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

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

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

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

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: PTO/SB/63

PTO/SB/63 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
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Under the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO ACCOMPANY PETITION	Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the abov e-identified applic ation is a uti lity or plant appl ication, the less er of: (a) the period of abandonment of the application; or (b) the per iod ex tending bey ond twenty years from the date on which the above-identified application was filed in the United States or, if the appl ication contains a specific reference to an earlier filed application(s) und er 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest s uch application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 199 5, or a des ign application, that conta ins a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

2. ☐ The undersigned is an attorney or agent of record. Registration Number_____.

_____	_____
Signature	Date
_____	_____
Typed or Printed Name	Telephone Number

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. 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 CO MPLETED 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.

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 11 2011

OFFICE OF PETITIONS

Jones Day
Attention: Peter G. Thurlow
222 East 41st Street
New York NY 10017

In re Application of :
David So :
Application No. 29/334,324 : DECISION ON PETITION
Filed: March 24, 2009 :
Attorney Docket No. 11385-031-999 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 10, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed December 23, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on March 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 corrected drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the corrected drawings are accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 further processing in accordance with this decision on petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MAR 09 2011

OFFICE OF PETITIONS

In re Application of
R. Scott Sayre
Application No. 29/334,407
Filed: March 25, 2009
Attorney Docket No. SAYREDES12

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit corrected formal drawings on or before November 13, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 13, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 14, 2010. A Notice of Abandonment was mailed on December 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 corrected formal drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The drawings have been approved by the USPTO draftsperson.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 Office of Data Management for further processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

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APR 29 2011
OFFICE OF PETITIONS
ON PETITION

In re Application of :
Toh, et al. :
Application No. 29/334,423 :
Filed: March 26, 2009 :
Attorney Docket No. 8621-02-PCP

This is a decision on the "Petition to the Director under 37 CFR 1.181(a)", filed April 6, 2011, which will be treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **DISMISSED**.

The record reflects that a Notice of Allowance and Issue Fee Due was mailed on January 5, 2011, allowing a statutory period for reply of three months from its mailing. On April 5, 2011, applicant filed a Request for Continued Examination under 37 CFR 1.114 (RCE) and Information Disclosure Statement. The instant petition was filed on April 6, 2011, wherein applicant maintains that a clerical error resulted in applicant filing a RCE transmittal, rather than a Continued Prosecution Application transmittal under 37 CFR 1.53(d). Although a Notice of Abandonment has not yet been mailed, it is noted that a "Notice of Improper Request for Continued Examination (RCE) was mailed April 8, 2011. It is noted that the notice of April 8, 2011, states that:

> [c]ontinued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.

Applicants' argument has been considered, but is unavailing. It is noted that subject application is a design application. Accordingly, the Request for Continued Examination under 37 CFR 1.114 does not apply to the instant application. The improper RCE filed April 5, 2011, cannot be treated as a CPA. Further to this point, applicant is directed to Section 201.06(d)(II)(B), which states:

> B. Conditions for Filing a CPA
>
> A continuation or divisional application may be filed under 37 CFR 1.53(d), if the prior nonprovisional application is a design application that is complete as defined by 37 CFR 1.51(b). The term "prior nonprovisional application" in 37 CFR 1.53(d)(1) means the nonprovisional application immediately prior to the CPA. A complete application as defined by 37 CFR 1.51(b) must contain, *inter alia*, the appropriate filing fee (including the basic filing fee, search fee, and examination fee) and a signed oath or declaration under 37 CFR 1.63.
>
> In addition, a continuation or divisional application filed under 37 CFR 1.53(d) must be filed before the earliest of: (A) payment of the issue fee on the prior application, unless a petition under 37 CFR 1.313(c) is granted in the prior application; (B) abandonment of the prior application; or (C) termination of proceedings on the prior application.

Note that request for continued examination (RCE) practice under 37 CFR 1.114 **is not available in design applications. Any improper RCE filed in a design application will not be treated as a CPA. An improper RCE filed in a design application will not toll the running of any time period for reply.**

Accordingly, the RCE filed April 5, 2011, was not a proper reply to the Notice of Allowance and Issue Fee Due and did not toll the period for reply set forth in that notice. The application was, therefore, abandoned on April 6, 2011. The petition to withdraw the holing of abandonment is dismissed.

Where applicant has allowed the application to go abandoned due to an inadvertent error such as is the case here, the appropriate petition is filed under 37 CFR 1.137(b) for unintentional delay filing a proper response to an Office action. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by a proper response to the Notice of Allowance and Issue Fee Due (unless previously filed), the required petition fee ($1620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Application of

Toh, et al.

Application No. 29/334,423

Filing Date: March 26, 2009

Attorney Docket No. 8621-02-PCP

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed May 13, 2011, in 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 application became abandoned for failure to respond in a timely and proper manner to the Notice of Allowance and Issue Fee Due mailed January 5, 2011. The notice allowed a statutory period for reply of three months from its mailing date. A proper reply was received within the allowable period, and the application became abandoned on April 6, 2011. A Notice of Abandonment was mailed May 17, 2011.

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

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

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

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

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

The instant petition does not satisfy the requirements of item (4) above[1].

As to item (4), the terminal disclaimer was not found with the petition papers. The subject application is a design application, therefore; a terminal disclaimer is required in order to revive the application. Any renewed petition filed must be accompanied by the completed terminal disclaimer form, which is enclosed for petitioner's convenience. Pursuant to 37 CFR 1.137(d), the terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted from this application that is equivalent to the period of abandonment of the application.

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

By mail: Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] It is noted that on June 1, 2011, the undersigned called Ms. Judy Chung and left a voice mail message informing Mrs. Chung that a terminal disclaimer was required to be filed with the instant petition. The undersigned requested that petitioners file a terminal disclaimer to supplement the instant petition. To date, no response has been received. Accordingly, the petition is being dismissed because a terminal disclaimer is required, but was not filed.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 11 2011

OFFICE OF PETITIONS

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

In re Application of

Toh, et al. : ON PETITION

Application No. 29/334,423 :

Filing Date: March 26, 2009 :

Attorney Docket No. 8621-02-PCP

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

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely and proper manner to the Notice of Allowance and Issue Fee Due mailed January 5, 2011. The notice allowed a statutory period for reply of three months from its mailing date. A proper reply was received within the allowable period, and the application became abandoned on April 6, 2011. A Notice of Abandonment was mailed May 17, 2011.

The Continued Prosecution Application and fee filed April 6, 2011, are noted.

The terminal disclaimer filed June 23, 2011, is noted and made of record.

The application is being forwarded to Technology Center 2900, GAU 2912 for further processing.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

MAILED

OCT 18 2010

OFFICE OF PETITIONS

In re Application of :
Marvin Timothy LONG, et al :
Application No. 29/334,424 : ON PETITION
Filed: March 26, 2009 :
Attorney Docket No. LAX-2-D :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2010.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file corrected drawings on or before June 10, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 10, 2010, which set a statutory period for reply of **three (3) months**. Accordingly, the application became abandoned on June 11, 2010.

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

A terminal disclaimer and the $140 ($70 if small entity) terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted on the application equivalent to the period of abandonment of the application, and must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.

If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(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 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.

/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
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GREENVILLE SC 29602-1449

MAILED
DEC 10 2010
OFFICE OF PETITIONS

In re Application of :
Marvin Timothy LONG, et al :
Application No. 29/334,424 : DECISION ON PETITION
Filed: March 26, 2009 :
Attorney Docket No. LAX-2-D :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 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 March 10, 2010, which set a period for reply of **three (3) months**. Accordingly, this application became abandoned on June 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of replacement drawings; (2) the petition fee of $810; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been recorded.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Marvin Timothy LONG, et al :
Application No. 29/334,424 :
Filed: March 26, 2009 :
Attorney Docket No. LAX-2-D :

CORRECTED
DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 3, 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 March 10, 2010, which set a period for reply of **three (3) months**. Accordingly, this application became abandoned on June 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $810; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been recorded.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAY M. SCHLOFF
6960 ORCHARD LAKE ROAD
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MAILED

FEB 23 2012

OFFICE OF PETITIONS

In re Application of
Jeff Reves
Application No. 29/334,489
Filed: March 27, 2009
Attorney Docket No. IPX09REVE001

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely submit corrected drawings on or before January 6, 2010 as required by the Notice of Allowance/Notice of Allowability mailed October 6, 2009. A Notice of Abandonment was mailed on January 20, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of Replacement Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed October 6, 2009, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Application of :
Takahashi :
Application No. 29/334,787 : DECISION
Filed/Deposited: 1 April, 2009 :
Attorney Docket No. Q112094 :

This is a decision on the papers filed on 31 August, 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, alternatively for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

NOTE:

Petitioner seeks to report conversations with Office personnel.

Petitioner, as one registered to practice before the Office, is aware that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any 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) and/or inactions.

Petitioner avers payment of the petition fee, however, the record reflects no such submission of payment.

Therefore, the fee is now charged as authorized.

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment," and/or "Renewed Petition under 37 C.F.R. §1.137(b)."

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

As to the 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).

As to the Allegations
of Unintentional Delay

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

Petitioner does not appear to have addressed properly the requirements under the rule. Any deficiencies must be overcome.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (drawing requirement) mailed on 28 May, 2010, with reply due absent extension of time on or before Monday, 30 August, 2010.

The application went abandoned by operation of law after midnight 30 August, 2010.

The Office mailed the Notice of Abandonment on 14 September, 2010.

The record evidences no action by Petitioner in the intervening months.

On 31 August, 2011—more than a year after abandonment and almost a year after Notice of same—Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment, but failing to make the showing:

- required pursuant to 37 C.F.R. §1.181 (*i.e.*, with no evidence of timely reply to the drawings requirement set forth in the 28 May, 2010, Notice of Allowance/Allowability and Fees Due) as outlined in the guidance in the Commentary at MPEP §711.03(c) (I), and as discussed below; and

- of timely request for relief under the Rule.

Moreover—and as problematically—the Notice of Abandonment was mailed on 14 September, 2010, and Petitioner took no action to overcome the Notice of Abandonment for nearly a year thereafter. Thus, Petitioner's original petition pursuant to pursuant to 37 C.F.R. §1.181 was not timely.

Petitioner, alternatively, sought relief pursuant to the regulations at requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b), however, Petitioner failed to satisfy the requirements under the Rule, which include not only the petition and fee therefore and a proper statement of unintentional delay under the regulation, but also a reply (*e.g.*, drawings, with an amendment for entry if required), and, where applicable, a 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 timely fling:

***

> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is

shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

***

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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[2] *See*: MPEP §711.03(c) (I)(B).

***

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3.Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

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) (***).

***

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]

[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).

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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]

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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).

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 and appears not to have timely sought relief under the Rule.

As to Allegations of
Unintentional Delay

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

As discussed above, it does not appear that Petitioner has satisfied the requirements under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**; further, the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[7] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

OCT 11 2011

OFFICE OF PETITIONS

In re Application of :
Takahashi :
Application No. 29/334,787 : DECISION
Filed/Deposited: 1 April, 2009 :
Attorney Docket No. Q112094 :

This is a decision on the papers filed on 4 October, 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, alternatively for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

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 sdatisfy the guidance in the Commentary at MPEP §711.03(c)(I).

As to the Allegations
of Unintentional Delay

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

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (drawing requirement) mailed on 28 May, 2010, with reply due absent extension of time on or before Monday, 30 August, 2010.

The application went abandoned by operation of law after midnight 30 August, 2010.

The Office mailed the Notice of Abandonment on 14 September, 2010.

The record evidences no action by Petitioner in the intervening months.

On 31 August, 2011—more than a year after abandonment and almost a year after Notice of same—Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment, but failing to make the showing required pursuant to 37 C.F.R. §1.181 (*i.e.*, with no evidence of timely reply to the drawings requirement set forth in the 28 May, 2010, Notice of Allowance/Allowability and Fees Due) as outlined in the guidance in the Commentary at MPEP §711.03(c) (I), and as discussed below; and of timely request for relief under the Rule. Moreover—and as problematically—the Notice of Abandonment was mailed on 14 September, 2010, and Petitioner took no action to overcome the Notice of Abandonment for several months thereafter. Thus, Petitioner's original petition pursuant to pursuant to 37 C.F.R. §1.181 was not timely. Petitioner, alternatively, sought relief pursuant to the regulations at requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b), however, Petitioner failed to satisfy the requirements under the Rule, which include not only the petition and fee therefore and a proper statement of unintentional delay under the regulation, but also a reply (*e.g.*, drawings, with an amendment for entry if required), and, where applicable, a terminal disclaimer and fee. The petition was dismissed on 7 September, 2011.

On 4 October, 2011, Petitioner renewed the petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment, and that pursuant to 37 C.F.R. §1.137(b) seeking revival. As to the former, Petitioner appeared unable that the re in fact was a reply in the form of drawings to the 28 May, 2010, Notice of Allowance, which contained a drawings requirement—Petitioner referred only to papers submitted before the Notice of Allowance was mailed. As to the latter petition, Petitioner submitted a petition, with previously charged fee, a reply in the form of drawings, the statement of unintentional delay, and a 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 timely fling:

***

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides prima facie evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information

Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

Petitioner's reply to the Notice of Abandonment was 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.

***

3.Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).

***

[1] *See*: MPEP §711.03(c) (I)(B).

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.[2]

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 (formerly 37 C.F.R. §10.18) to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

> 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 it is to be made and supported.

Petitioner appeared not to have made the showing required and appeared not to have timely sought relief under the Rule.

As to Allegations of
Unintentional Delay

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

It appearred that Petitioner satisfied the requirements under the rule.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 be and it hereby is **dismissed**; the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the

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

Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 13 2010

OFFICE OF PETITIONS

Bay Area Technolgy Law Group PC
500 Sansome Street, Suite 404
San Francisco CA 94111

In re Application of :
Makhija, et al. :
Application No. 29/335,127 : ON PETITION
Filed: April 9, 2009 :
Attorney Docket No. 535 21 :

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

The application became abandoned March 2, 2010 for failure to timely submit corrected formal drawings, as required by the Notice of Allowability (Notice), mailed December 1, 2009. The Notice set a set a three month statutory period of time for reply. Notice of Abandonment was mailed March 16, 2010. A petition under 37 CFR 1.137(b) was filed March 22, 2010 and dismissed June 7, 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, the petition is **GRANTED**.

This application is being directed to the Office of Data Management for further processing.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RONALD L. HOFER
122 LINDBERGH LANE
MOORESVILLE NC 28117

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Application of :
Brandon C. Hoover, et al. :
Application No. 29/335,167 : DECISION ON PETITION
Filed: April 9, 2009 :
Attorney Docket No. 1051-0004 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before April 27, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 27, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 28, 2010. A Notice of Abandonment was mailed on May 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $430 issue fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Issue Fee(s) Due is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner

desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Office of Data Management within **ONE MONTH** from the mail date of this decision. A copy of the Issue Fee Transmittal is attached to this decision.

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 further processing in accordance with this decision on petition.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: copy of Issue Fee Transmittal (PTOL 85B Form)

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

59970 7590 01/27/2010

RONALD L. HOFER
122 LINDBERGH LANE
MOORESVILLE, NC 28117

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/335,167	04/09/2009	Brandon C. Hoover	1051-0004	4055

TITLE OF INVENTION: LED LIGHT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$430	$0	$0	$430	04/27/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
JACKSON, MARCUS A	2916	D26-004000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

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

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

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Paper No.

HOGAN LOVELLS US LLP
ONE TABOR CENTER, SUITE 1500
1200 SEVENTEENTH ST
DENVER CO 80202

MAILED

OCT 0 1 2010

OFFICE OF PETITIONS

In re Application of :
Enrico Zoppas : DECISION ON
Application No. 29/335,178 : PETITION
Filed: April 9, 2009 :
Atty Docket No.ST-E4408/06EMB7:

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed March 18, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings[1] within three months of the mailing date, November 24, 2009, of the Notice of Allowability. A courtesy Notice of Abandonment was mailed on March 12, 2010.

The petition includes the required reply in the form of corrected drawings, the required statement of unintentional delay, payment of the petition fee set forth in 37 CFR § 1.17(m), and the required terminal disclaimer. Petitioner has met all requirements of 37 CFR 1.137(b) for revival of this application.

The terminal disclaimer has been accepted and is being made of record.

[1] There was no outstanding requirement for payment of a publication fee. The design issue fee was timely paid on December 31, 2009.

The Office of Data Management (formerly known as the Office of Patent Publication) has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Kieran S. Hardy	:	DECISION ON PETITION
Application No. 29/335,185	:	TO WITHDRAW
Filed: April 9, 2009	:	FROM RECORD
Attorney Docket No. 124509/370183	:	

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 2, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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 Christopher J. Gegg on behalf of all attorneys of record who are associated with Customer No. 00826.

All attorneys/agents associated with Customer Number 00826 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Currently, there is 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

cc: Live Eyewear, Inc.
3490 Broad Street
San Luis Obispo, California 93401

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 07 2010

OFFICE OF PETITIONS

Jackson Intellectual Property Group PLLC
106 Starvale Lane
Shipman VA 22971

In re Application of :
I-Sin Peng :
Application No. 29/335,264 : DECISION ON PETITION
Filed: April 21, 2009 :
Attorney Docket No. 7005.148 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed April 23, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 24, 2009. A Notice of Abandonment was mailed January 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an examination fee of $70, a search fee of $50, a basic filing fee of $110, a surcharge fee of $65 (2) the petition fee of $810, and (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly the fees are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 November 1, 2010. Inquires regarding the status of the application should be directed to 571-272-4000.

/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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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Patent No. D623679 :
Issue Date: September 14, 2010 :
Application No. 29/335,288 : NOTICE
Filed: April 13, 2009 :
Attorney Docket No. 3156.305US01

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Patent No. D623680 :
Issue Date: September 14, 2010 :
Application No. 29/335,289 : NOTICE
Filed: April 13, 2009 :
Attorney Docket No. 3156.305US01

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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JACKSON INTELLECTUAL PROPERTY GROUP, PLLC
106 STAVALE LANE
SHIPMAN, CA 22971

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of :
I-Sin Peng :
Application No. 29/335,291 : DECISION ON PETITION
Filed: April 13, 2009 :
Attorney Docket No. 7005-149 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 2010, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-provisional Application (Notice), mailed May 1, 2009. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 2, 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 reply, (2) the petition fee of $810, (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

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

The terminal disclaimer is accepted and has been made 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 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 of the reply received November 1, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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DEC 23 2010

OFFICE OF PETITIONS

In re Patent No. D625,750	:	
Issue Date: October 19, 2010	:	
Application No. 29/335,374	:	NOTICE
Filed: April 14, 2009	:	
Attorney Docket No. 3156.309US01	:	

This is a notice regarding your request, October 29, 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 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.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAR 24 2011

OFFICE OF PETITIONS

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

In re Patent No. D624,578	:	
Issued: September 28, 2010	:	
Application No. 29/335,375	:	NOTICE
Filed: April 14, 2009	:	
Attorney Docket No.: 3156.307US01	:	

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

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Status as a small entity has been removed.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

AUG 02 2010

OFFICE OF PETITIONS

In re Application of :
Brian Kaminer, et al. :
Application No. 29/335,410 : ON PETITION
Filed: April 15, 2009 :
Attorney Docket No. E0465.70054US00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **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) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure s to timely pay the issue on or before July 8, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 8, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 9, 2010. The Notice of Abandonment was mailed July 27, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c) (II) (C) and (D). The instant petition lacks item(s) (1) & (4).

Item 1:

The required reply was not filed with instant petition. 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue. The filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to the pay the issue fee or any portion thereof.

Item 4:

All design application petitions must be accompanied with a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) as required by 37 CFR 1.137(d). A copy of the terminal disclaimer form PTO/SB/63 is enclosed for your convenience.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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 Terri Johnson at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: Terminal Disclaimer Form PTO/SB/63

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of :
Brian Kaminer, et al. :
Application No. 29/335,410 : DECISION GRANTING PETITIONS
Filed: April 15, 2009 : UNDER 37 CFR 1.137(b) AND
Attorney Docket No. E0465.70054US00 : 37 CFR 1.313(c)(3)

This is a decision on the petitions, filed August 5, 2010, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue fee on or before July 8, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 8, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $430 issue fee, (2) the petition fee of $810, 3) an adequate statement of unintentional delay and 4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the reply to the Notice of Allowance is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(3):

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on August 5, 2010 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed July 15, 2010.

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This matter is being referred to Technology Center AU 2912 for processing of the CPA and consideration of the Information Disclosure Statement filed July 15, 2010.

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.
29/335,545	04/17/2009	Corinna von Gottberg	09-142	2549

7590 03/21/2011

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

EXAMINER	
ULM, ROSELYNNE H	

ART UNIT	PAPER NUMBER
2917	

MAIL DATE	DELIVERY MODE
03/21/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

March 21, 2011

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

In re Application of	:	
Corinna Von Gottberg et al.	:	**DECISION ON PETITION**
Application No. 29335545	:	
Filed: 4/17/2009	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 09-142	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 17, 2010.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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AUG 04 2010

OFFICE OF PETITIONS

In re Application of :
Brian Kaminer, et al. :
Application No. 29/335,592 : ON PETITION
Filed: April 17, 2009 :
Attorney Docket No. E0465.70056US00 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **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) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure s to timely pay the issue on or before July 8, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 8, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 9, 2010. The Notice of Abandonment was mailed July 27, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c) (II) (C) and (D). The instant petition lacks item(s) (1) & (4).

Item 1:

The required reply was not filed with instant petition. 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue. The filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to the pay the issue fee or any portion thereof.

Item 4:

All design application petitions must be accompanied with a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) as required by 37 CFR 1.137(d). A copy of the terminal disclaimer form PTO/SB/63 is enclosed for your convenience.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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 Terri Johnson at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: Terminal Disclaimer Form PTO/SB/63

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Brian Kaminer, et al.	:	
Application No. 29/335,592	:	DECISION GRANTING PETITIONS
Filed: April 17, 2009	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. E0465.70056US00	:	37 CFR 1.313(c)(3)

This is a decision on the renewed petition, filed August 11, 2010, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

The application became abandoned for failure to timely pay the issue fee on or before July 8, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 8, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 9, 2010. A Notice of Abandonment was mailed on July 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 the $430 issue fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of April 10, 2010 is accepted as being unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(3):

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on August 11, 2010 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed August 11, 2010.

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This matter is being referred to Technology Center AU 2912 for processing of the CPA and consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

SEP 28 2010

OFFICE OF PETITIONS

Chien-Hui Su
P. O. Box 70-121 Taichung
Taichung City 40899 TW TAIWAN

In re Application of :
Jin-Tsai Lai :
Application No. 29/335,655 : DECISION ON PETITION
Filed: April 20, 2009 :
Attorney Docket No. GFP-985696 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 9, 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 submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on April 12, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on July 13, 2010. A Notice of Abandonment was mailed on July 27, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and **(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d)**. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (4).

As to item (4) since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365 (c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $70 is required. If the terminal disclaimer is signed by the assignee, an assignee must comply with the requirements of 37 CFR 3.73(b). Please see Form No. PTO/SB/63.

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

OCT 28 2010

OFFICE OF PETITIONS

Chien-Hui Su
P. O. Box 70-121 Taichung
Taichung City 40899 TW TAIWAN

In re Application of :
Jin-Tsai Lai :
Application No. 29/335,655 : DECISION ON PETITION
Filed: April 20, 2009 :
Attorney Docket No. GFP-985696 :

This is a decision on the renewed 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 submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on April 12, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on July 13, 2010. A Notice of Abandonment was mailed on July 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 corrected drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).. Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 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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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28289-4000

MAILED

AUG 11 2010

OFFICE OF PETITIONS

In re Application of	:	
Bruce PENDLETON	:	
Application No. 29/335,703	:	DECISION ON PETITION
Filed: April 20, 2009	:	
Attorney Docket No. 052619/368213	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings, on or before September 19, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 19, 2009. Accordingly, the date of abandonment of this application is September 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the corrected drawings, (2) the petition fee of $810.00; a proper Terminal Disclaimer with fee, and (3) a proper statement of unintentional delay. An inquiry with the examiner in charge of this application indicates that the drawings submitted after the Notice of Allowance, are approved.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.

This application is being referred to Office of Data Management 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
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Alexandria, VA 22313-1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Donna Roth, et al. :
Application No. 29/335,720 : ON PETITION
Filed: April 20, 2009 :
Attorney Docket No.: 86354(308092) :

This is a decision on the petition, filed June 21, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed February 5, 2010. A Notice of Abandonment was mailed on May 21, 2010. On June 21, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $810; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and the $70 fee required by 37 CFR 1.137(d).

The terminal disclaimer filed June 21, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT
AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.g

Date Mailed :February 24, 2011
Patent No. : D606,130 S
Ser. No. :29/335770
Issued : December 15, 2009
Inventor(s) Veronica Wong
Title SQUIRTING TOY

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, attorney agent/firm) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Amster Rothstein & Ebenstein LLP
90 Park Avenue, Level 21
New York, NY 10016

MD/mt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110816

DATE : August 16, 2011

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction on Patent No.: D613143, application 29/335855

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 appropriate box.

☐ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

The change is denied because the change will introduce new matter. No where in the original papers does it indicate that this charging device would be used to charge power tools. While the examiner the designation of charging device is permissible, charging device for power tools is not permissible.

SPE: Hyder S. Philip **Art Unit** 2917

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : 08/16/11

Patent No. : D613143 S
Patent Issued : 04/06/10
Docket No. : **3889B**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 06/01/11; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

MICHAEL J. STRIKER
103 EAST NECK ROAD
HUNTINGTON NY 11743

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110816

DATE : August 16, 2011

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction on Patent No.: D613143, application 29/335855

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 appropriate box.

☐ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☒ **Denied** State the reasons for denial below.

Comments:

The change is denied because the change will introduce new matter. No where in the original papers does it indicate that this charging device would be used to charge power tools. While the examiner the designation of charging device is permissible, charging device for power tools is not permissible.

SPE: Hyder S. Philip **Art Unit** 2917

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FEB 09 2012

OFFICE OF PETITIONS

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

In re Application of
Michaela M. Christian
Application No. 29/335,910
Filed: April 24, 2009
Attorney Docket No.: 4519P3202CIPDES

ON PETITION

This is a decision in response to the petition, filed January 5, 2012, to revive the above-identified design application under 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed August 29, 2011. A Notice of Abandonment was mailed on December 15, 2011. On January 5, 2012, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $930; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and the $80 fee required by 37 CFR 1.137(d).

The terminal disclaimer filed January 5, 2012 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JENSEN + PUNTIGAM, P.S.
2033 6TH AVE, SUITE 1020
SEATTLE WA 98121

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Reishus et al.	:	
Application No. 29/335,945	:	DECISION ON PETITION
Filed: April 24, 2009	:	
Attorney Docket No. 1120-61	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before September 14, 2010, as required by the Notice of Allowance and Fee(s) Due mailed June 14, 2010. Accordingly, the date of abandonment of this application is September 15, 2010. A Notice of Abandonment was mailed September 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $430.00, (2) the petition fee of $810.00; (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and fee of $70.00.

The request for a terminal disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SCHEIN & CAI LLP
James Cai
111 W. ST. JOHN ST.
SUITE 1250
SAN JOSE CA 95113

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Liu : DECISION ON PETITION
Application No. 29/335,988 :
Filed: April 27, 2009 :
Atty. Dkt. No.: YOTRIO-002-2009 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2010.

The petition is **GRANTED**.

This application became abandoned September 2, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed June 1, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed September 16, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
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

BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NOS. 003797 & 013797
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
JAN 13 2011
OFFICE OF PETITIONS

In re Application of
Albert Y.S. Shum et al.
Application No. 29/336,013
Filed: April 27, 2009
Attorney Docket No: 013797.04686

ON PETITION

This is a decision on the renewed petition filed July 21, 2010, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 15, 2009. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $860 issue fee and terminal disclaimer/fee, (2) the petition fee of $1,620, 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." Accordingly, the reply to the Notice of Allowance mailed December 15, 2009 is accepted as having been unintentionally delayed.

Petitioner is advised that the issue fee paid on July 21, 2010 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed July 21, 2010.

This matter is being referred to Technology Center AU 2912 for processing of the CPA.

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

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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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Patent No. D629893 :
Issue Date: December 28, 2010 :
Application No. 29/336,096 : DECISION ON PETITION
Filed: April 28, 2009 :
Attorney Docket No. NPR-003DB :

This is a decision on the petition under 37 CFR 1.182, filed May 24, 2011, which is being treated under 37 CFR 1.181 (no fee), requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

Petitioner states that the original Letters Patent was never received.

The required showing to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication (in this case, the original Letters Patent) was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received. A copy of the docket record where the nonreceived Letters Patent would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See* MPEP § 711.03(c) and 1156 Official Gazette 53 (November 16, 1993).

The petition is accompanied by the evidence required to establish nonreceipt of the original Letters patent. Accordingly, Publishing Division is directed to issue duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 756-1556.

A copy of this decision is being faxed to the Office of Data Management or issuance of a duplicate Letters Patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Ollie Person (Fax - 571-270-9764)
Kimberly Terrell (Fax - 571-270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

JAMES W. MILLER, ATTORNEY
527 MARQUETTE AVENUE
SUITE 1960, RAND TOWER
MINNEAPOLIS MN 55402

MAILED

OCT 11 2011

OFFICE OF PETITIONS

In re Application of :
Floer :
Application No. 29/336,299 :
Patent No.: D609,927 :
Filed: April 30, 2009 :
Issued: February 16, 2010 :
Attorney Docket No.: :
133.1.8/USA :
Title: STEP STOOL :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on September 21, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of $660.00 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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 regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRYCE LIEN
171 N. IVY AVENUE
MONROVIA CA 91016

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Bryce LIEN	:	
Application No. 29/336,310	:	DECISION ON PETITION
Filed: April 30, 2009	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed November 19, 2009, which set a period for reply of **three (3) months**. Accordingly, this application became abandoned on February 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $430; (2) the petition fee of $810; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for 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
Alexandria, VA 22313-1450
www.uspto.gov

TIMOTHY A. JOHNSON
ENERGIZER PERSONAL CARE LLC.,
10, LEIGHTON ROAD
MILFORD CT 06460

MAILED

AUG 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Gregg A. MICINILIO	:	
Application No. 29/336,346	:	DECISION ON PETITION
Filed: May 1, 2009	:	
Attorney Docket No. SWS-0906	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed March 1, 2010, which set a period for reply of **three (3) months**. Accordingly, this application became abandoned on June 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $860; (2) the petition fee of $1620; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for 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
Alexandria, VA 22313-1450
www.uspto.gov

PATENT DOCUMENTATION CENTER
XEROX CORPORATION
100 CLINTON AVE SOUTH
MAILSTOP: XRX2-020
ROCHESTER NY 14644

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JUN 10 2011

OFFICE OF PETITIONS

In re Patent No. D629451 :
Issue Date: December 21, 2010 :
Application No. 29/336,486 : DECISION ON PETITION
Filed: May 5, 2009 :
Attorney Docket No. 20080374Q-US-DP :

This is a decision on the Request For Correction Of Patent To State The Name Of The Assignee(s) Under 37 C.F.R. §3.81(b) and Request For Certificate Of Correction Under Rule 323, filed January 28, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was due to incorrect spelling of assignee's name. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"XXEROX CORPORATION"

to:

--XEROX CORPORATION, Norwalk, CT (US)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (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. D629451.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 11/17/2010

TO SPE OF : ART UNIT 2914

SUBJECT : Request for Certificate of Correction on Patent No.: 29336631/ D606175

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:

Thanks!

/Celia A. Murphy/
Supervisory Patent Examiner, Art Unit 2914

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.
29/336,705	05/07/2009	Maurizio Placuzzi	6361	6983

7590 07/01/2011

SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING, MD 20910

EXAMINER	
LOHR, BARBARA B	
ART UNIT	PAPER NUMBER
2915	
MAIL DATE	DELIVERY MODE
07/01/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 30, 2011

SHOEMAKER AND MATTARE, LTD
10 POST OFFICE ROAD - SUITE 100
SILVER SPRING MD 20910

In re Application of	:	
Placuzzi, Maurizio	:	**DECISION ON PETITION**
Application No. 29/336,705	:	
Filed: 05/07/2009	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. 6361	:	***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 03, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

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FEB 15 2011

OFFICE OF PETITIONS

In re Application of :
Nan, et al. :
Application No. 29/336,723 : DECISION
Filed/Deposited: 7 May, 2009 :
Attorney Docket No. 054911-133218 :

This is a decision on the papers considered as a petition filed on 19 March, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

The papers considered as the instant petition were received into the Office of Petitions for determination only at this writing.

Further, the record is silent as to any action (e.g., Status Inquiry) by Petitioner since the filing of the papers considered as the instant petition—until the inquiry filed on 11 February, 2011, contemporaneously with the drafting of this decision.

Petitioner inappropriately and improperly refers to a telephone conversation averred to have been held with Office staff.

Petitioner appears to have ignored the clear language of the:

- guidance in the Commentary at MPEP §711.03(c)(I) as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181; and

- regulations at 37 C.F.R. §1.2.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (drawings requirements) mailed on 6 October, 2009, with reply due under a non-extendable deadline on or before 6 January, 2010.

The application went abandoned by operation of law after midnight 6 January, 2010.

The Office mailed the Notice of Abandonment on 20 January, 2010.

On 19 March, 2010, Petitioner filed, *inter alia*, papers considered here as a petition pursuant to 37 C.F.R. §1.181, and therein Petitioner avers, inter alia, a telephone conversation with Office staff as to the matter—which averment Petitioner, as one registered to practice before the Office, is well aware is inappropriate and not proper in that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the

[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the

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) and/or inaction(s). Moreover, an instruction/requirement mailed by the Examiner in an Office action is not to be ignored, and should an applicant/practitioner take issue with the instruction/requirement, the applicant/practitioner **must** file a timely and proper reply. Following the 19 March, 2010 submission of the petition, the record is silent as to any action (e.g. Status Inquiry) until that filed on 11 February, 2011, contemporaneously with the drafting of this decision.

Thus, Petitioner failed to make the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

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;

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.

calendar; reminder system; or the individual docket record for the application in question.[2]

***

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

[2] *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. [3]

***

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.[4]

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

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[3] *See*: MPEP §711.03(c) (I)(B).

[4] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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.[5],[6]

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.[7]

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.

---

[5] 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).

[6] 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.))

[7] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 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 pursuant to 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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[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 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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SUITE 1000
KANSAS CITY MO 64112-1802

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of :
Nan, et al. :
Application No. 29/336,723 : DECISION
Filed/Deposited: 7 May, 2009 :
Attorney Docket No. 054911-133218 :

This is a decision on the petition filed on 14 March, 2011, pursuant to pursuant to 37 C.F.R. §1.137(b) .

The petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioner does not appear to have satisfied the requirements under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

Application No. 29/336,723

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (drawings requirements) mailed on 6 October, 2009, with reply due under a non-extendable deadline on or before 6 January, 2010.

The application went abandoned by operation of law after midnight 6 January, 2010.

The Office mailed the Notice of Abandonment on 20 January, 2010.
On 19 March, 2010, Petitioner filed, *inter alia*, papers considered as a petition pursuant to 37 C.F.R. §1.181, and therein Petitioner averred, *inter alia*, a telephone conversation with Office staff as to the matter—which averment Petitioner, as one registered to practice before the Office, was aware was inappropriate and not proper in that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any 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) and/or inaction(s). Moreover, an instruction/requirement mailed by the Examiner in an Office action is not to be ignored, and should an applicant/practitioner take issue with the instruction/requirement, the applicant/practitioner **must** file a timely and proper reply. (Following the 19 March, 2010, submission of the petition, the record is silent as to any action (e.g. Status Inquiry) until that filed on 11 February, 2011.) Thus, Petitioner failed to make the showing as set forth in the Manual of Patent Examining Procedure (MPEP), and the petition was dismissed on 15 February, 2011.

On 15 March, 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, but—again—without a copy of the drawing(s) in question, with a terminal disclaimer and fee, and made the statement of unintentional delay.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

Petitioner has failed to satisfy the requirements under the Rule and discussed above.

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[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

As to the Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POLSINELLI SHUGHART PC
700 W. 47TH STREET
SUITE 1000
KANSAS CITY MO 64112-1802

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of :
Nan, et al. :
Application No. 29/336,723 : DECISION
Filed/Deposited: 7 May, 2009 :
Attorney Docket No. 054911-133218 :

This is a decision on the petition filed on 25 July, 2011, pursuant to pursuant to 37 C.F.R. §1.137(b) .

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (drawings requirements) mailed on 6 October, 2009, with reply due under a non-extendable deadline on or before 6 January, 2010.

The application went abandoned by operation of law after midnight 6 January, 2010.

The Office mailed the Notice of Abandonment on 20 January, 2010.

On 19 March, 2010, Petitioner filed, *inter alia*, papers considered as a petition pursuant to 37 C.F.R. §1.181, and therein Petitioner averred, *inter alia*, a telephone conversation with Office staff as to the matter—which averment Petitioner, as one registered to practice before the Office, was aware was inappropriate and not proper in that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any 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) and/or inaction(s). Moreover, an instruction/requirement mailed by the Examiner in an Office action is not to be ignored, and should an applicant/practitioner take issue with the instruction/requirement, the applicant/practitioner **must** file a timely and proper reply. (Following the 19 March, 2010, submission of the petition, the record is silent as to any action (e.g. Status Inquiry) until that filed on 11 February, 2011.) Thus, Petitioner failed to make the showing as set forth in the Manual of Patent Examining Procedure (MPEP), and the petition was dismissed on 15 February, 2011.

On 15 March, 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, but—again—without a copy of the drawing(s) in question, with a terminal disclaimer and fee, and made the statement of unintentional delay. The petition was dismissed on 1 June, 2011.

On 25 July, 2011, Petitioner re-advanced the petition, including therewith this time a reply in the form of drawing figures, and made the statement of unintentional delay. For reasons that are not apparent in the record, Petitioner demands that the Office issue a Notice of Allowance—that paper was mailed on 6 October, 2009, and it was the drawing requirements of that paper to which Petitioner failed to timely and properly reply and so tumbled the instant application into abandonment. Thus, Petitioner's demand is not appropriate.

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.

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[1] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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**.

---

[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 Publications Branch to be processed into a patent due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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
www.uspto.gov

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application of :
Li Liu, et al. :
Application No. 29/336,939 : ON PETITION
Filed: May 12, 2009 :
Attorney Docket No.: 28076/SV1364 :

This is a decision in response to the petition, filed February 10, 2011, to revive the above-identified design application under 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for a failure to timely pay the issue fee on or before January 24, 2011, as required by the Notice of Allowance and Fee(s) Due mailed October 22, 2010. A Notice of Abandonment was subsequently mailed on February 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 the issue fee of $860, (2) the petition fee of $1,620, (3) an adequate statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer filed February 10, 2011 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to the Office of Data Management for further processing.

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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MICHAEL MOLINS
MOLINS & CO
SUITE 5 LEVEL 6
139 MACQUARIE ST
SYDNEY NSW 2000 AU AUSTRALIA

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of :
David Davenport :
Application No. 29/337,276 : DECISION ON PETITION
Filed: May 19, 2009 :
Attorney Docket No. BRE0756S :

This is in response to the petition to revive the above-identified application under 37 CFR 1.137(b), filed May 4, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability, mailed December 15, 2010. This Notice set a statutory period for reply of three (3) months. No drawings having been received, the application became abandoned on March 16, 2011. The Office mailed a Notice of Abandonment on April 4, 2011.

With the instant petition, petitioner has paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of corrected drawings.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/04/11

TO SPE OF : ART UNIT 2900

SUBJECT : Request for Certificate of Correction for Appl. No 29/337,355 D610988

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s) Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

STELLA M. REID
SUPERVISORY PATENT EXAMINER

SPE 2912 **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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HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Justin Hoffman	:	
Application No. 29/337,395	:	DECISION ON PETITION
Filed: May 21, 2009	:	
Attorney Docket No. 4967-108363	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before September 14, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed June 14, 2010. Accordingly, the date of abandonment of this application is September 15, 2010. A Notice of Abandonment was mailed October 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Corrected Drawings, (2) the petition fee of $810.00; (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and required $70.00 fee.

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the Corrected Drawings submitted with the instant 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

Paper No.

BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE NY 13202-1355

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of :
Nicolia et al. : DECISION ON
Application No. 29/337,397 : PETITION
Filed: May 21, 2009 :
Atty Docket No. 141D032 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed September 26, 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 for failure to submit drawings within three months of the mailing date, May 18, 2010, of the Notice of Allowability. This Office action set a three-month nonextendable statutory period for reply. No drawings having been received, the above-identified application became abandoned on August 19, 2010. A courtesy Notice of Abandonment was mailed on September 8, 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 the required reply in the form of submission of drawings[1]; payment of the petition fee; and the required statement of unintentional delay.

However, the instant petition does not satisfy requirement (4) above. No terminal disclaimer and fee were submitted with the instant petition. A properly completed terminal disclaimer and terminal disclaimer fee are required for revival of this design application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] The issue fee was timely submitted on June 11, 2010.

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE NY 13202-1355

MAILED

MAR 01 2011

OFFICE OF PETITIONS

In re Application of :
Nicolia et al. : DECISION ON
Application No. 29/337,397 : PETITION
Filed: May 21, 2009 :
Atty Docket No. 141D032 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed February 2, 2011.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned for failure to submit drawings within three months of the mailing date, May 18, 2010, of the Notice of Allowability. This Office action set a three-month nonextendable statutory period for reply. No drawings having been received, the above-identified application became abandoned on August 19, 2010. A courtesy Notice of Abandonment was mailed on September 8, 2010.

By decision mailed January 26, 2011, a prior petition filed September 26, 2010 was dismissed (for the same reasons as this petition is being dismissed). Without objection or argument to the prior decision, applicant submitted another petition under 1.137(b) with a copy of the petition decision. Payment of the terminal disclaimer was filed. But no terminal disclaimer accompanied this response. As discussed below, as this is a design application, filing of a properly completed terminal disclaimer is required for revival of this application.

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 filed September 26, 2010 included the required reply in the form of submission of drawings[1]; payment of the petition fee; and the required statement of unintentional delay.

However, the initial petition did not satisfy requirement (4) above. No terminal disclaimer and fee were submitted with the petition. On renewed petition, the terminal disclaimer fee was submitted. A properly completed terminal disclaimer is still required for revival of this design application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

[1] The issue fee was timely submitted on June 11, 2010.

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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE NY 13202-1355

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
Nicolia et al. : DECISION ON
Application No. 29/337,397 : PETITION
Filed: May 21, 2009 :
Atty Docket No. 141D032 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed March 4, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit drawings within three months of the mailing date, May 18, 2010, of the Notice of Allowability. This Office action set a three-month nonextendable statutory period for reply. No drawings having been received, the above-identified application became abandoned on August 19, 2010. A courtesy Notice of Abandonment was mailed on September 8, 2010.

By decision mailed January 26, 2011, a prior petition filed September 26, 2010 and by decision mailed February 28, 2011, a renewed petition filed February 2, 2011 was dismissed. Petitioner failed to submit a properly completed terminal disclaimer, required for revival of this design application.

On instant renewed petition, applicant filed the required terminal disclaimer. The initial petition filed September 26, 2010 included the required reply in the form of submission of drawings[1]; payment of the petition fee; and the required statement of unintentional delay. On February 2, 2011, applicant submitted the terminal disclaimer fee.

The terminal disclaimer has been accepted and made of record.

[1] The issue fee was timely submitted on June 11, 2010.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DAVID C. JENKINS
ECKERT SEAMANS CHERIN & MELLOTT, LLC
44TH FLOOR
600 GRANT STREET
PITTSBURGH, PA 15219

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Eric Daniel Hyp et al :
Application No. 29/337,473 : ON PETITION
Filed: May 22, 2009 :
Attorney Docket No. 288903-00543 :

This is a decision on the petition filed August 17, 2010 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed April 29, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 30, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of formal drawings; (2) the petition fee; (3) the required statement of unintentional delay have been received and (4) terminal disclaimer.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GEOFFREY E. DOBBIN, PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Application of :
Richard M. Fitzpatrick et al. :
Application No. 29/337,528 : DECISION ON PETITION
Filed: May 23, 2009 :
Attorney Docket No. **GDRMF01W3** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 2011, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee on or before May 10, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 9, 2010. Accordingly, the date of abandonment of this application is May 11, 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 $430, (2) the petition fee of $810; and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The petition is hereby **GRANTED**.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 to be processed 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
www.uspto.gov

Brannon Sowers Hughel PC
1 North Pennsylvania Street
Suite 520
Indianapolis IN 46204

MAILED
MAY 20 2011
OFFICE OF PETITIONS

In re Application of :
Morris Pettorelli :
Application No. 29/337,558 : DECISION ON PETITION
Filed: May 26, 2009 :
Attorney Docket No. 65-10318 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2011, to revive the above-identified application.

The petition is **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 submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on February 24, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on May 25, 2010. A Notice of Abandonment was mailed on June 16, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and **(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d)**. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (4).

As to item (4), the terminal disclaimer filed April 14, 2011, is not acceptable because it was not signed by an attorney or agent of record. See 37 CFR 1.321(b)(c).

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

UNITED STATES 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 01 2011
OFFICE OF PETITIONS

Brannon Sowers Hughel PC
1 North Pennsylvania Street
Suite 520
Indianapolis IN 46204

In re Application of :
Morris Pettorelli :
Application No. 29/337,558 : DECISION ON PETITION
Filed: May 26, 2009 :
Attorney Docket No. 65-10318 :

This is a decision on the letter received on November 11, 2011 regarding the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on February 24, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on May 25, 2010. A Notice of Abandonment was mailed on June 16, 2010.

The previous decision was mailed on May 19, 2011. A proper reply was not received. Reconsideration of this petition must be submitted within a two month time period, along with a cover letter entitled "Renewed Petition". A cover letter and an extension of time fee were not submitted with the power of attorney and terminal disclaimer filed on August 24, 2011. A two month extension of time fee is due, to treat the response filed on August 24, 2011 as a renewed petition request.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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

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

Brannon Sowers Hughel PC
1 North Pennsylvania Street
Suite 520
Indianapolis IN 46204

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Application of :
Morris Pettorelli :
Application No. 29/337,558 : DECISION ON PETITION
Filed: May 26, 2009 :
Attorney Docket No. 65-10318 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2011, along with a two month extension of time, 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 Allowability mailed on February 24, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on May 25, 2010. A Notice of Abandonment was mailed on June 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay and, (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

CHARTER IP, LLC
P.O. BOX 64
The Plains VA 20198

MAILED

DEC 22 2010

OFFICE OF PETITIONS

In re Application of :
Patrick W. Service :
Application No. 29/337613 : DECISION ON
Filing or 371(c) Date: 05/27/2009 : PETITION
Title of Invention: :
EXERCISE ALIGNMENT MAT :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 7, 2010, and supplemented September 14, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed June 2, 2010. The Notices set a non-extendable three (3) month period for reply. No complete and proper reply having been received, the application became abandoned on September 3, 2010. A Notice of Abandonment was mailed September 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee filed with the petition, and corrected drawings (filed September 14, 2010); (2) the petition fee, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee and file corrected drawings as required by the Notices is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to Publishing Division for processing into a patent.

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

DUANE MORRIS LLP – PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of :
Tore Etholm Idsoe :
Application No. 29/338,039 : DECISION ON PETITION
Filed: June 3, 2009 : UNDER 37 CFR 1.313(c)
Attorney Docket No. E8240-00012 :

This is a decision on the petition under 37 CFR 1.313(c), filed October 5, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

The petition to withdraw from issue is accompanied by a request for continued examination (RCE) under 37 CFR 1.114. However, the filing of an RCE is improper in a design application. In this regard, petitioner's attention is directed to 37 CFR 1.114(e), which states that the provisions of this section do not apply if the application is:

(1) A provisional application;
(2) An application for a utility or plant patent filed under 35 U.S.C. 111(a) before June 8, 1995;
(3) An international application filed under 35 U.S.C. 363 before June 8, 1995;
(4) An application for a design patent; or
(5) A patent under reexamination.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:
(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Accordingly, the petition must be dismissed as failing to comply with the provisions of 37 CFR 1.313(c)(3).

Petitioner's attention is directed to 37 CFR 1.53(d), which states:

(1) A continuation or divisional application (but not a continuation-in-part) of a prior nonprovisional application may be filed as a continued prosecution application under this paragraph, provided that:

(i) The application is for a design patent;

(ii) The prior nonprovisional application is a design application that is complete as defined by § 1.51(b); and

(iii) The application under this paragraph is filed before the earliest of:

(A) Payment of the issue fee on the prior application, unless a petition under § 1.313 is granted in the prior application;

(B) Abandonment of the prior application; or

(C) Termination of proceedings on the prior application.

Accordingly, the appropriate avenue of relief for a grantable petition to withdraw this design application from issue would be to file either a continued prosecution application (CPA) under 37 CFR 1.53(d) or a continuing application under 37 CFR 1.53(b). Any request for reconsideration should be entitled "Renewed Petition under 37 CFR 1.313(c)(3) and be accompanied by a request for a CPA under 37 CFR 1.53(d) or a statement of express abandonment in favor of a concurrently filed continuing application under 37 CFR 1.53(d).

Petitioner is reminded that the renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the appropriate documents (*i.e.*, the renewed petition and CPA request) for withdrawing this application from issue.

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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DUANE MORRIS LLP – PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Tore Etholm Idsoe	:	DECISION GRANTING PETITION
Application No. 29/338,039	:	UNDER 37 CFR 1.313(c)(3) (CPA)
Filed: June 3, 2009	:	
Attorney Docket No. E8240-00012	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed October 7, 2010, and resubmitted on October 8, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

***Petitioner is advised that the issue fee paid on September 7, 2010 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed* October 7, 2010.**

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2914 for processing of the CPA and consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/338,079	06/04/2009	Hans-Juergen Beyer	LEO 028 DA	8524

29673 7590 02/17/2011

STEVENS & SHOWALTER LLP
7019 CORPORATE WAY
DAYTON, OH 45459-4238

EXAMINER	
ALBERT, ELIZABETH	
ART UNIT	PAPER NUMBER
2913	
MAIL DATE	DELIVERY MODE
02/17/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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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2/17/2011

STEVENS & SHOWALTER LLP
7019 CORPORATE WAY
DAYTON OH 45459-4238

In re application of :
HANS-JUERGEN BEYER :
Application No. 29/338,079 :
Filed: June 04, 2009 :

DECISION ON PETITION UNDER 37 CFR § 1.313(a) WITHDRAWL FROM ISSUE

For: **WRITING INSTRUMENT**
DOCKET NO: **LEO 028 DA** :

This is a decision on the petition, filed September 08, 2010, under 37 CFR §1.313(a). Petitioner request withdraw from issue of the above-identified patent application.

The petition is GRANTED.

A review of the file record indicates a continued prosecution application (CPA) was electronically filed on June 22, 2010, in the identified application for submission of an Information Disclosure Statement (IDS). The fee for filing was not included with the filing of the CPA. Since no fee was paid for filing the CPA, the Office incorrectly issued a Notice of Allowance. Accordingly, the above identified application will be withdrawn from issue in order to enable the Office to issue a notice of missing parts in the form of the filing fee.

SUMMARY: PETITION GRANTED

This application is being forwarded to the 2900 Technical Support Staff for processing of the Notice of Missing Parts.

Any questions regarding this letter should be directed to Richard Chilcot at (571) 272-6777.

Robert Olszewski
Director
Technology Center 2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK NY 10019

MAILED

JUN 22 2011

OFFICE OF PETITIONS

In re Patent No. D614037 :
Issue Date: April 20, 2010 :
Application No. 29/338,122 : ON PETITION
Filed: June 4, 2009 :
Attorney Docket No. V0151.0028 :

This is a decision on the petition filed June 18, 2010, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

A petition under 37 CFR 3.81 requires a fee of $130. As such, this fee will be charged to petitioner's deposit account.

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 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

cc: Michael R. Ward
Morrison & Foerster, LLP
425 Market Street
San Francisco, CA 94105-2482

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.

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of :
Rick Wehrmann : DECISION ON
Application No. 29/338,166 : PETITION
Filed: June 5, 2009 :
Atty Docket No. 02946/05017 :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed December 9, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the issue fee[1] within three months of the mailing date, August 23, 2010, of the Notice of Allowance and Fee(s) Due. A courtesy Notice of Abandonment was mailed on December 9, 2010.

The petition includes the required reply in the form of payment of the issue fee, the required statement of unintentional delay, payment of the petition fee set forth in 37 CFR § 1.17(m), and the required terminal disclaimer (and disclaimer fee). Petitioner has met all requirements of 37 CFR 1.137(b) for revival of this application.

The terminal disclaimer has been accepted and is being made of record.

The Office of Data Management (formerly known as the Office of Patent Publication) has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

[1] There was no outstanding requirement for payment of a publication fee or for submission of corrected drawings.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD.
SUITE 1200
DURHAM NC 27707

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of :
Christopher P. Hussell et al. :
Application No. 29/338,186 : DECISION ON PETITION
Filed: June 05, 2009 :
Attorney Docket No. **1485/49 DES** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue and publication fees on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed April 16, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 17, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) and (4).

In regard to item (1), petitioner should note that while the revival of applications abandoned for failure to timely prosecute and for failure to timely pay the issue fee are incorporated together in 37 CFR 1.137, the statutory provisions for the revival of an application abandoned for failure to timely prosecute and for failure to timely submit the issue fee are mutually exclusive. See Brenner v. Ebbert, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968). 35 U.S.C. 151 authorizes the acceptance of a delayed payment of the issue

fee, if the issue fee "is submitted ... and the delay in payment is shown to have been unavoidable." 35 U.S.C. 41(a)(7) likewise authorizes the acceptance of an "unintentionally delayed payment of the fee for issuing each patent." Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a Continued Prosecution Application (CPA) without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof. The Notice of Allowance requires the timely payment of the issue fee in effect on the date of its mailing to avoid abandonment of the application. In instances in which there is an increase in the issue fee by the time of payment of the issue fee required in the Notice of Allowance, the Office will mail a notice requiring payment of the balance of the issue fee then in effect. See In re Mills, 12 USPQ2d 1847, 1848 (Comm'r Pat. 1989). The phrase "for failure to pay the issue fee or any portion thereof" applies to those instances in which the applicant fails to pay either the issue fee required in the Notice of Allowance or the balance of the issue fee required in a subsequent notice. In such instances, the reply must be the issue fee then in effect, if no portion of the issue fee was previously submitted, or any outstanding balance of the issue fee then in effect, if a portion of the issue fee was previously submitted. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

In regard to item (4), the Terminal Disclaimer filed concurrently with the instant petition is not acceptable as it is not signed by an attorney 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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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3100 TOWER BLVD.
SUITE 1200
DURHAM NC 27707

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Christopher P. Hussell et al.	:	
Application No. 29/338,186	:	DECISION ON PETITION
Filed: June 05, 2009	:	
Attorney Docket No. **1485/49 DES**	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue fee on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 16, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Issues Fees and a Continued Prosecution Application (CPA); (2) the petition fee of $1620; (3) an adequate statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 CPA.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being forwarded to Technology Center AU 2912 for processing.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

MARC E. HANKIN, ESQ.
11414 THURSTON CIRCLE
LOS ANGELES CA 90049

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of :
Les I. BUTLER :
Application No. 29/338,202 : DECISION ON PETITION
Filed: June 05, 2009 :
Attorney Docket No. BUTLER - GRIPSHARP DESIGN :

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed March 03, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 04, 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 $810.00; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely reply to the Notice of Allowability of March 03, 2010 is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record.

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

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.
29/338,218	06/08/2009	Peter Varga	PORD-MU 1158	2457

24131 7590 12/09/2010
LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER	
BROWN, MELODY NOEL	
ART UNIT	PAPER NUMBER
2917	

MAIL DATE	DELIVERY MODE
12/09/2010	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

DEC 09 2010

In re Application of
VARGA, PETER
Serial No.: 29338218
Filed: 6/8/2009

: DECISION ON PETITION

This is a decision on the petition 37 C.F.R. § 1.103(a) filed on Dec. 8, 2009 to suspend action by the Office.

The petition is GRANTED.

REGULATION AND PRACTICE

A grantable petition to suspend action under 37 CFR § 1.103(a) must include:

(1) A showing of good and sufficient cause for suspension of action; and

(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

REVIEW OF FACTS

The application was filed June 8, 2009. At the time of the filing, applicants filed a petition for suspension of action by the Office. That petition was approved by the examiner. A second petition for the suspension of action was filed Dec. 8, 2009. The applicant has stated that the suspension is necessary because the part claimed in application is a part of a design for a new vehicle which as not been yet been released to the public. The release of the design could be damaging o the owner of the application.

The applicant has met the requirements set forth above.

DECISION

For the above-stated reasons, the petition is GRANTED. Action on this case is suspended for a period of six months from the mailing date of this decision.

Petitioner is advised this suspension of action under 37 CFR 1.103(a) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1) and MPEP 709.

Any inquiry regarding this decision should be directed to Philip S. Hyder, Supervisory Patent Examiner, at (571) 272-2621 .

/Robert Olszewski/
Robert Olszewski
Director, Technology Center 2900
Designs

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.
29/338,221	06/08/2009	Peter Varga	PORD-MU 1164	2472

24131 7590 12/09/2010
LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

EXAMINER	
BROWN, MELODY NOEL	
ART UNIT	PAPER NUMBER
2917	

MAIL DATE	DELIVERY MODE
12/09/2010	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.

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

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

DEC 0 9 2010

In re Application of
VARGA, PETER
Serial No.: 29338221
Filed: 6/8/2009

: DECISION ON PETITION

This is a decision on the petition 37 C.F.R. § 1.103(a) filed on June 8, 2010 to suspend action by the Office.
The petition is GRANTED.

REGULATION AND PRACTICE

A grantable petition to suspend action under 37 CFR § 1.103(a) must include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

REVIEW OF FACTS

The application was filed June 8, 2009. On Sept. 29, 2009, applicants filed a petition for suspension of action by the Office. That petition was approved by the examiner on Oct. 1, 2009. A second petition for the suspension of action was filed Dec. 8, 2009. That petition too was approved. A third petition for the suspension of action was filed June 8, 2010. The applicant has again stated that the suspension is necessary because the part claimed in application is a part of a design for a new vehicle which as not been yet been released to the public. The release of the design could be damaging o the owner of the application.
The applicant has met the requirements set forth above.
DECISION

For the above-stated reasons, the petition is GRANTED. Action on this case is suspended for a period of six months from the mailing date of this decision.

Petitioner is advised this suspension of action under 37 CFR 1.103(a) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request

for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1) and MPEP 709.

Any inquiry regarding this decision should be directed to Philip S. Hyder, Supervisory Patent Examiner, at (571) 272-2621.

/Robert Olszewski/
Robert Olszewski
Director, Technology Center 2900
Designs

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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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Christopher J. Gallo :
Application No. 29/338,232 :
Filed: June 8, 2009 :
Atty Docket No.: 2523002US2AD :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This 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) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CROSSLEY PATENT LAW
236 SOUTH THIRD STREET
#287
MONTROSE CO 81401

MAILED
JUN 22 2011
OFFICE OF PETITIONS

In re Application of
O'Hern et al.
Application No. 29/338,662
Filed: June 16, 2009
Attorney Docket No. 09-06-11DA

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and to submit corrected formal drawings on or before November 19, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 19, 2009. Accordingly, the date of abandonment of this application is November 20, 2009. A Notice of Abandonment was mailed December 4, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $430.00, and corrected formal drawings , (2) the petition fee of $810.00, (3) a proper statement of unintentional delay and (4) a Terminal Disclaimer and required $70.00 fee.

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the corrected drawings submitted with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110503

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

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:

/STELLA REID/
Supervisory Patent Examiner.Art Unit 2912

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL P. MAZZA, LLC
686 CRESCENT BLVD.
GLEN ELYN IL 60137

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Chun Yen Wang	:	
Application No. 29/338,769	:	DECISION ON PETITION
Filed: June 18, 2009	:	
Attorney Docket No. 10095DES	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before May 19, 2010, as required by the Notice of Allowability For a Design Application mailed February 19, 2010. Accordingly, the date of abandonment of this application is May 20, 2010. A Notice of Abandonment was mailed June 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of Corrected Drawings (previously submitted June 16, 2010); (2) the petition fee of $810.00 (previously submitted June 16, 2010); (3) a proper statement of unintentional delay; (4) a Terminal Disclaimer with the accompanying $70.00 fee.

The request for a terminal disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent and review of the Corrected Drawings submitted on June 16, 2010.

Joan Olszewski
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

8/20/2010

Patent No. :D616438
Inventor(s) :Antonio Mugica et al.
Issued :5/25/2010
Title :SMART INTEGRATED BIOGRAPHIC AND BIOMETRIC DATA CAPTURE PORTABLE DEVICE
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 item [54] is printed in accordance with the record please show evidence of supporting data or amendment to change the title. 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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
Alexandria, VA 22320-4850

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Gorskey et al.	:	
Application No. 29/338,852	:	DECISION ON PETITION
Filed: June 19, 2009	:	
Attorney Docket No. 099235-8542	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and to submit Corrected Drawings on or before April 11, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed January 11, 2011. Accordingly, the date of abandonment of this application is April 12, 2011. A Notice of Abandonment was mailed April 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $860.00 issue fee and Corrected Drawings, (2) the petition fee of $1,620.00; (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and required $140.00 fee.

Further, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Additionally, 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.

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the Corrected Drawings submitted June 27, 2011.

/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

STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

MAILED

FEB 04 2011

OFFICE OF PETITIONS

In re Patent No. D631,346	:	
Issued: January 25, 2011	:	
Application No. 29/338,881	:	NOTICE
Filed: June 19, 2009	:	
Patentee: Erhard Schwartz, et al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Status as a small entity has been changed.

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

Date : January 9, 2012

Patent No. :D650310
Inventor(s) :Andreas Varotsos
Issued :December 13, 2011
Title :FOOD SERVICE VEHICLE

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322 and 1.323.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error concerning the inventor's Address. Since this information is printed solely in accordance with the typewritten information provided on the Declaration, Oath and/or ADS, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct information be provided accordingly, no correction is in order here under the provisions of Rules 1.322 or 1.323, unless a petition is granted.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box PETITIONS
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

If the petition under 37 CFR 1.182 is filed and granted the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (571) 272-9005.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272- 9005

Reising Ethington P.C.
P.O. Box 4390
Troy, Michigan 48099-4390

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date January 14, 2011

Patent No. :D624141
Inventor(s) :Lai, Ying-Kuang
Issued :September 1, 2010
Title :ARTIFICIAL GOLF GREEN

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322 and 1.323.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error concerning the inventor's names and addresses. Since this information is printed solely in accordance with the typewritten information provided on the Declaration, Oath or ADS, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct information be provided accordingly, no correction is in order here under the provisions of Rules 1.322 or 1.323, unless a petition is granted.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Petitions Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

If the petition under 37 CFR 1.182 is filed and granted the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Egbert Law Offices, PLLC
412 Main Street, 7th Flr.
Houston, TX 77002

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : January 14, 2011

Patent No. :D624141
Inventor(s) :Lai, Ying-Kuang
Issued :September 1, 2010
Title :ARTIFICIAL GOLF GREEN

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322 and 1.323.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error concerning the inventor's names and addresses. Since this information is printed solely in accordance with the typewritten information provided on the Declaration, Oath or ADS, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct information be provided accordingly, no correction is in order here under the provisions of Rules 1.322 or 1.323, unless a petition is granted.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Petitions Office
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
Attn: Office of Petitions

If the petition under 37 CFR 1.182 is filed and granted the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Egbert Law Offices, PLLC
412 Main Street, 7th Flr.
Houston, TX 77002

/arg

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 PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED
SEP 22 2011
OFFICE OF PETITIONS

In re Application of	:	
Ager et al.	:	
Application No.: 29/339104	:	DECISION ON
Filing or 371(c) Date: 06/24/2009	:	PETITION
Attorney Docket Number: CD926	:	

This is a decision in response to the to withdraw holding of abandonment, filed August 31, 2011. The petition is properly treated under 37 C.F.R. 1.181(a).

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability ("Notice"), mailed May 11, 2011. The Notice required corrected drawings, and set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned August 12, 2011.

Applicant files the present petition and provides that Applicants intended to timely file corrected drawings at the time of filing of the issue fee; however, due to a clerical error, Applicants did not attach the drawings when the issue fee was paid.

Petitioner requests withdrawal of the holding of abandonment. Petitioner has submitted corrected drawings with the present petition.

Applicable Law, Rules and MPEP

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.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Analysis

Applicant is advised an application becomes abandoned according to statute and Office rules. In this instance, Applicant was required to file a complete and proper reply to the Notice mailed on May 11, 2011. It is Applicant's responsibility to file a complete and proper reply to the application as the condition of the application requires. Here, Applicant acknowledges due to a clerical error, Applicants did nottimely file the drawings in reply to the Notice of Allowability, when the issue fee was paid.

Applicant is advised that, as provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. **Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application**.

MPEP 711.03(c).

Conclusion

In view of the foregoing, the petition is dismissed.

Alternate Venue

Applicant is strongly urged to file 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 was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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 PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Ager et al.	:	
Application No.: 29/339104	:	ON PETITION
Filing or 371(c) Date: 06/24/2009	:	
Title of Invention:	:	
THREE SEAL SACHET WITH A	:	
FRONT FACE FITMENT	:	

This is a decision on the renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed October 14, 2011.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability ("Notice"), mailed May 11, 2011. The Notice required corrected drawings, and set a non-extendable three (3) month period for reply. No complete and proper reply having been filed, the application became abandoned August 12, 2011.

Applicant filed corrected drawings and a petition to withdraw the holding of abandonment on August 31, 2011. The petition was dismissed in a decision mailed September 22, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the current issue fee and corrected drawings (filed August 31, 2011); (2) the petition fee, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely file corrected drawings as required by the Notice is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on any continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/D LW/

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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SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GRADEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Zacharevitz et al. :
Application No. 29/339.126 : DECISION ON PETITION
Filed: June 24, 2009 :
Attorney Docket No. PA-02428(24031D) :

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2011, to revive the above-identified design application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue fee on or before July 30, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 30, 2010, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on July 31, 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 petition lacks item (4) above. Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer (Form PTO/SB/63) dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required.

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 Internet: EFS-Web[1]

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
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

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Alexandria, VA 22313-1450
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400 GRADEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

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MAY 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Zacharevitz et al.	:	
Application No. 29/339.126	:	DECISION ON PETITION
Filed: June 24, 2009	:	
Attorney Docket No. PA-02428(24031D)	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 27, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 30, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 30, 2010, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on July 31, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $860, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee of $140 as required by 37 CFR 1.137(d). Accordingly, the failure to timely submit the issue fee as required by the Notice of Allowance and Fee(s) Due is accepted as being unintentionally delayed.

The terminal disclaimer filed April 27, 2011, is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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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SCULLY SCOTT MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

MAILED
JUN 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Steven Daniel Zacharevitz et al	:	DECISION GRANTING PETITION
Application No. 29/339,126	:	UNDER 37 CFR 1.313(c)(3) (CPA)
Filed: June 24, 2009	:	
Attorney Docket No. PA-02428 (24031D)	:	

This is a decision on the petition filed May 26, 2011, under 37 CFR 1.313(c)(3), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on February 7, 2011 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed May 26, 2011.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2915 for processing of the CPA and consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
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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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of :
Baptiste Dosne :
Application No. 29/339,130 :
Filed: June 24, 2009 :
Attorney Docket No. 490201.00092 :

Decision Noting Joinder of Inventor and Decision Dismissing Any Request for Status Under 37 CFR 1.47 as Moot

Papers filed on October 27, 2010,, in response to a Decision refusing to accord status under 37 CFR 1.47(b) mailed on May 21, 2010, include a Declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under Rule 1.47(b) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue taking steps to prepare the application for examination.

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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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Application of :
Baptiste Dosne :
Application No. 29/339,131 :
Filed: June 24, 2009 :
Attorney Docket No. 490201.00093 :

Decision Noting Joinder of Inventor and
Decision Dismissing Any Request for
Status Under 37 CFR 1.47 as Moot

Papers filed on October 27, 2010,, in response to a Decision refusing to accord status under 37 CFR 1.47(b) mailed on May 21, 2010, include a Declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under Rule 1.47(b) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Patent Application Processing will be informed of the instant decision so that it may continue taking steps to prepare the application for examination.

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Jen-Shyan Chen et al. :
Application No. 29/339,216 : DECISION ON PETITION
Filed: June 26, 2009 :
Attorney Docket No. **340902-1090** :

This is a decision on the petition, filed June 11, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the nonfinal Office action mailed October 16, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 25, 2010.

Petitioner asserts that the Office action dated October 16, 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 nonreceipt of an Office communication must include:

> (1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> (2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

The petition fails to satisfy item (3) of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Office action dated October 16, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $810 petition fee. Petitioner is also required to submit a terminal disclaimer since the above-identified application is a design application. As stated in 37 CFR 1.137(d) it requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $70 is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

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 inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Jen-Shyan Chen et al. :
Application No. 29/339,216 : DECISION ON PETITION
Filed: June 26, 2009 :
Attorney Docket No. **340902-1090** :

This is a decision on the renewed petition, filed October 25, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed October 16, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 25, 2010.

Petitioner asserts that the Office action dated October 16, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

> (1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

(2) Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received.

(3) A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See MPEP §711.03(c)(I)(A).

Petitioner states that a master docket for this firm does not exist. Petitioner includes other evidence as set forth in item (3) above. In view thereof, the Notice of Abandonment mailed May 25, 2010, is hereby vacated and the holding of abandonment withdrawn and the application is restored to pending status.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571)272-4584.

This application is being referred to the Technology Center of Art Unit 2912 for consideration of the response filed June 11, 2010.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Law Office Of Robert E. Kasody,
Professional Corporation
6601 Center Drive West, Suite #500
Los Angeles, CA 90045

MAILED

JAN 06 2011

OFFICE OF PETITIONS

In re Application of :
Joseph F. SCALISI, et *al.* :
Application No. 29/339,229 :
Filed: June 26, 2009 :
Attorney Docket No. **LBTECH.010DV2** :

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 2, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Robert E. Kasody, the sole attorney of record. Robert E. Kasody has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor at the address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely pay the issue fee indicated in the Notice of Allowance and Fee(s) Due mailed May 13, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **JOSEPH F. SCALISI**
38 DISCOVERY, SUITE 150
IRVINE, CA 92618

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TIMBERLINE PATENT LAW GROUP
157 S. HOWARD STREET
SUITE 516
SPOKANE, WA 99203

MAILED

FEB 25 2011

OFFICE OF PETITIONS

In re Application of :
Joseph F. Scalisi, et al. :
Application No. 29/339,229 : DECISION ON PETITION
Filed: June 26, 2009 :
Attorney Docket No. LBTECH.010DV2 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before August 13, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 13, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 14, 2010. A Notice of Abandonment was mailed on August 31, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $430 issue fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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.

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 further 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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FEB 25 2011

OFFICE OF PETITIONS

TIMBERLINE PATENT LAW GROUP
157 S. HOWARD STREET
SUITE 516
SPOKANE, WA 99203

In re Application of :
Joseph F. Scalisi, et al. :
Application No. 29/339,231 : DECISION ON PETITION
Filed: June 26, 2009 :
Attorney Docket No. LBTECH.010DV3 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before August 13, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 13, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 14, 2010. A Notice of Abandonment was mailed on August 30, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $430 issue fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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.

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 further processing into a patent.

April M. Wise
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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September 1, 2010

Patent No. : D612,054 B2
Appl. No. : 29/339,427
Inventor(s) : Peter Kuschnigg, et al.
Issued : March 16, 2010
Title : **FINGER PROSTHESIS**
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
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.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

MAILED

JAN 14 2011

OFFICE OF PETITIONS

In re Patent No. D612054 :
Issue Date: March 16, 2010 :
Application No. 29/339,427 : ON PETITION
Filed: June 30, 2009 :
Attorney Docket No. :

This is a decision on the petition filed July 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**.

This decision vacates the Office communication mailed September 1, 2010 which was issued in error.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHOOK, HARDY & BACON LLP
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BLVD
KANSAS CITY MO 64108-2613

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Langley, et al. : DECISION ON PETITION
Application No. 29/339,524 :
Filed: July 1, 2009 :
Atty. Dkt. No.: HALC.146169 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2010.

The petition is **GRANTED**.

This application became abandoned August 22, 2010 for failure to timely reply to the Notice of Allowability (Notice) mailed May 21, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed September 3, 2010.

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 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

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

OCT 01 2010

OFFICE OF PETITIONS

PPC, A DIVISION OF
JOHN MEZZALINGUA ASSC., INC.
6176 EAST MOLLOY RD.
E. SYRACUSE NY 13057-0278

In re Application of :
Eric PURDY, et al :
Application No. 29/339,600 : DECISION ON PETITION
Filed: July 2, 2009 :
Attorney Docket No. ID-1507 C-US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 22, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed March 22, 2010, which set a period for reply of **three (3) months**. Accordingly, this application became abandoned on June 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $860; (2) the petition fee of $1620; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for 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
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 01 2010

OFFICE OF PETITIONS

DORT PATENT PC
BOX 320069
ALEXANDRIA VA 22320

In re Application of :
Wascheck :
Application No. 29/339,650 : ON PETITION
Filed: July 3, 2009 :
Attorney Docket No. BINA.P007.D :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 20, 2010.

The petition is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

This application became abandoned by operation of law for failure to timely file a response to the Notice to File Missing Parts mailed July 15, 2009. This Notice set an extendable period for reply of two (2) months for applicants to submit an executed oath or declaration, together with a surcharge of $65 for its late filing. The Office mailed a Notice of Abandonment on March 25, 2010.

In a petition to withdraw the holding of abandonment filed April 26, 2010, Petitioner contended that he timely filed a reply on November 20, 2009 (made timely by including a two month extension of time). A review of the file revealed that the Office did receive a timely reply on November 20, 2009, but that it was

placed in application No. 29/338,650 instead of 29/339,650. In view of MPEP 724.05, the petition was granted in a decision mailed on June 22, 2010. The decision indicated that the reply filed on November 20, 2009, as well as the fees, had been removed from application No. 29/338,650 and placed into the instant application. However, on July 9, 2010, the Office mailed another Notice to File Missing Parts, requiring the $65 surcharge. The Office mailed a Notice of Abandonment on July 14, 2010.

The reply filed on November 20, 2009, including the extension of time fee and the $65 surcharge, have been removed from application No. 29/338,650 and placed into the instant application.

The matter is being forwarded to the Office of Patent Application Processing for pre-examination processing, using the reply and fees filed on November 20, 2009.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

JUL 11 2011

OFFICE OF PETITIONS

GEOFFREY E. DOBBIN, PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

In re Application of :
Michael T. MAYBERRY et al. : ON PETITION
Application No. 29/339,672 :
Filed: July 6, 2009 :
Atty. Docket No.: GDRMF01Y3

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed June 21, 2010, which set a statutory period for reply of three (3) months. The application became abandoned September 22, 2010. A Notice of Abandonment was mailed October 7, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the Issue fee, and submission of replacement drawings as required by the Notice, (2) a petition fee of $810, (3) a statement of unintentional delay, and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Office of Data Management for further processing.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 1/6/2011

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/339681 Patent No.: D626039 S

CofC mailroom date: 12/30/2010

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Phillip S. Hyde
SPE

2917
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110222

DATE : February 22, 2011

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction on Patent No.: D626039

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 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: /Hyder S. Philip/ **Art Unit** 2917

UNITED STATES 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. Bennett Ford
2355 Drusilla Lane
Baton Rouge LA 70809

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Chase Wills :
Application No.: 29/339776 : ON PETITION
Filing or 371(c) Date: 07/07/2009 :
Title of Invention: :
TABLE :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed April 9, 2010.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed December 18, 2009. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on March 19, 2010. A Notice of Abandonment was mailed April 2, 2010.

The present petition

Applicant files the present petition, issue fee and drawing in response to the Notice; however, no Terminal Disclaimer has been filed.

Applicable Law, Rules and MPEP

A petition to revive an abandoned application on the grounds that the failure to reply was unintentional (37 CFR 1.137(b)) must be accompanied by: (1) the required reply; (2) 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; (3) any terminal disclaimer

required pursuant to 37 CFR 1.137(d) (see above discussion); and (4) the petition fee as set forth in 37 CFR 1.17(m). Applicant lacks item (3).

Analysis and conclusion

A terminal disclaimer and the terminal disclaimer fee are required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995.

Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/D LW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Terminal Disclaimer Form

UNITED STATES 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. Bennett Ford
2355 Drusilla Lane
Baton Rouge LA 70809

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Chase Wills :
Application No.: 29/339776 : ON PETITION
Filing or 371(c) Date: 07/07/2009 :
Title of Invention: :
TABLE :

This is a decision on the renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 24, 2010.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed December 18, 2009. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on March 19, 2010. A Notice of Abandonment was mailed April 2, 2010.

The renewed 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 and corrected drawing(s);(previously filed) (2) the petition fee (previously filed), (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on any continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/D LW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110222

DATE : February 22, 2011

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction on Patent No.: D626040

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 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: /Hyder S. Philip/ **Art Unit** 2917

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARSTENS & CAHOON, LLP
13760 NOEL ROAD, SUITE 900
DALLAS TX 75240

MAILED
NOV 30 2010
OFFICE OF PETITIONS

In re Application of :
Zanolin, et al. :
Application No. 29/339,841 : DECISION
Filed: 8 July, 2009 :
Attorney Docket No. CACIP.00023 :

This is a decision on the petition filed on 15 July, 2010, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to IFW Files Repository.

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Application No. 29/339,841

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DONALD J. ERSLER, S.C.
725 GARVENS AVENUE
BROOKFIELD WI 53005

MAILED
AUG 18 2010
OFFICE OF PETITIONS

In re Application of :
Michael R. Meyer :
Application No. 29/340,109 : DECISION ON PETITION
Filed: July 14, 2009 :
Attorney Docket No. 2122 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 2010, to revive the above-identified application

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on November 2, 2009, which set a period for reply of three (3) months. Accordingly, the application became abandoned on February 3, 2010. A Notice of Abandonment was mailed on February 18, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and **(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d)**. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (4).

As to item (4) since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365 (c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $70 is required. If the terminal disclaimer is signed by the assignee, an assignee must comply with the requirements of 37 CFR 3.73(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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DONALD J. ERSLER, S.C.
725 GARVENS AVENUE
BROOKFIELD WI 53005

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of :
Michael R. Meyer :
Application No. 29/340,109 : DECISION ON PETITION
Filed: July 14, 2009 :
Attorney Docket No. 2122 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2010, to revive the above-identified application

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on November 2, 2009, which set a period for reply of three (3) months. Accordingly, the application became abandoned on February 3, 2010. A Notice of Abandonment was mailed on February 18, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and **(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d)**. Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (4).

The terminal disclaimer form submitted with the petition is not to be used to accompany a petition. Please refer to Form No. PTO/SB/63.

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

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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DONALD J. ERSLER, S.C.
725 GARVENS AVENUE
BROOKFIELD WI 53005

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of :
Michael R. Meyer :
Application No. 29/340,109 : DECISION ON PETITION
Filed: July 14, 2009 :
Attorney Docket No. 2122 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 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 Allowability mailed on November 2, 2009, which set a period for reply of three (3) months. Accordingly, the application became abandoned on February 3, 2010. A Notice of Abandonment was mailed on February 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810, and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 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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KING & SPALDING LLP
401 CONGRESS AVENUE
SUITE 3200
AUSTIN TX 78701

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of :
Franke, et al. :
Application No. 29/340,273 : DECISION
Filed: 15 July, 2009 :
Attorney Docket No. 16503.105004 :

This is a decision on the petition filed on 24 June, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **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.

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:

The Applicant failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 15 March, 2010, with reply due under a non-extendable deadline on or before 15 June, 2010.

The application went abandoned by operation of law after midnight 15 June, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 24 June, 2010, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, and made a statement of unintentional delay—but with no terminal disclaimer and fee. Petitioner is:

- reminded that this is a design application; and
- directed, as always in this regard, to the guidance in the commentary at MPEP §711.03(c).

The Office mailed the Notice of Abandonment on 2 July, 2010.

All deficiencies must be overcome on any renewed petition.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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).

[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).

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]

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. Petitioner has not satisfied the petition and the disclaimer requirements under the rule.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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.**

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[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.))

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KING & SPALDING LLP
401 CONGRESS AVENUE
SUITE 3200
AUSTIN TX 78701

MAILED
FEB 04 2011
OFFICE OF PETITIONS

In re Application of :
Franke, et al. :
Application No. 29/340,273 : DECISION
Filed: 15 July, 2009 :
Attorney Docket No. 16503.105004 :

This is a decision on the petition filed on 15 October, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

The Applicant failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 15 March, 2010, with reply due under a non-extendable deadline on or before 15 June, 2010.

The application went abandoned by operation of law after midnight 15 June, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 24 June, 2010, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, and made a statement of unintentional delay—but with no terminal disclaimer and fee. Petitioner was: reminded that this is a design application; and directed, as always in this regard, to the guidance in the commentary at MPEP §711.03(c). The petition was dismissed on 19 August, 2010.

The Office mailed the Notice of Abandonment on 2 July, 2010.

On 15 October, 2010, Petitioner re-advanced his petition pursuant to 37 C.F.R. §1.137(b), pointed to the previously filed reply in the form of fees due, made a statement of unintentional delay, and submitted a terminal disclaimer and fee.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Application No. 29/340,273

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[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.

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5325 FLEET AVENUE
CLEVELAND OH 44105

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FEB 22 2011

OFFICE OF PETITIONS

In re Application of :
Elias :
Application No. 29/340,281 : DECISION
Filed: 16 July, 2009 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 16 June, 2010, for revival of an application abandoned due to unavoidable delay pursuant to 37 C.F.R. §1.137(a) .

NOTE:

Petitioner has presented no showing of unavoidable delay. (*See*: the regulations at 37 C.F.R. §1.137(a) and the guidance in the Commentary at MPEP §711.03(c).)

It appears that Petitioner's only alternative may be to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have satisfied—and may be unable to satisfy—the showing requirements (as to unavoidable delay) under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

BACKGROUND

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 27 January, 2010, with reply due under a non-extendable deadline on or before 27 April, 2010.

The application went abandoned by operation of law after midnight 27 April, 2010.

The Office mailed the Notice of Abandonment on 13 May, 2010.

On 16 June, 2010, Petitioner filed, *inter alia*, a petition with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), with reply in the form of fees due, and an averment that due to problems with mail delivery, Petitioner did not receive the Notice of Allowance/Allowability and Fees Due. Use of an unreliable delivery address does not constitute unavoidable delay. Additionally, Petitioner's failure to provide documentary evidence in support of Petitioner's averments is not consistent with the required showing of diligence envisioned in *Pratt*.[1]

It appears that Petitioner's only alternative may be to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(a).

Thus, it is noted that the guidance in the Commentary at MPEP §711.03(c)(II) for the showing required pursuant to 37 C.F.R. §1.137(a) provides in pertinent part:

[1] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

***

...Unavoidable Delay

As discussed above, "unavoidable" delay is the epitome of "unintentional" delay. Thus, an intentional delay precludes revival under 37 C.F.R..§137(a) ("unavoidable" delay) or 37 C.F.R. §1.137(b) ("unintentional" delay). See Maldague, *10 USPQ2d at 1478.*

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, *38 App. D.C. 497, 514-15 (1912)(quoting* Pratt, *1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also* Winkler v. Ladd, *221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963),* aff'd, *143 USPQ 172 (D.C. Cir. 1963);* Ex parte Henrich, *1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."* Smith v. Mossinghoff, *671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."* Haines v. Quigg, *673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).*

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

> *(A)the error was the cause of the delay at issue;*
>
> *(B)there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and*
> *(C)the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.*

See In re Egbers, *6 USPQ2d 1869, 1872 (Comm'r Pat. 1988),* rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg, *10 USPQ2d 1787 (D.D.C. 1988);* In re Katrapat, *6 USPQ2d 1863, 1867-68 (Comm'r Pat. 1988). For example, where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The following do not constitute proper notification of a change in correspondence address:*

> *(A)the mere inclusion, in a paper filed in an application for another purpose, of an address differing from the previously provided correspondence address, without mention of the fact that an address change was being made;*
>
> *(B)the notification on a paper listing plural applications as being affected (except as provided for under the Customer Number practice - see MPEP § 403); or*
>
> *(C)the lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address.*

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, *673 F. Supp. at 317, 5 USPQ2d at 1132;* Vincent v. Mossinghoff, *230 USPQ 621, 624 (D.D.C. 1985);* Smith v. Diamond, *209 USPQ 1091 (D.D.C. 1981);* Potter v. Dann, *201 USPQ 574 (D.D.C. 1978);* Ex parte Murray, *1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 C.F.R. 1.116 and 1.135(b) are manifest* that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action.

Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 C.F.R. §1.8 or §1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 C.F.R. §1.8 and §1.10 does not constitute "unavoidable" delay. See *Krahn,* 15 USPQ2d at 1825. Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from

USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

35 U.S.C. §133 and §151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See *In re Application of Takao*, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. *Id.* at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 C.F.R. §1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).
An applicant who fails to file a petition under 37 C.F.R. §1.137(a) "promptly" upon becoming notified, or otherwise becoming aware, of the abandonment of the application will not be able to show that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(a) was unavoidable. The removal of the language in 37 C.F.R. §1.137(a) requiring that any petition thereunder be "promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment" should **not** be viewed as: (A) permitting an applicant, upon becoming notified, or otherwise becoming aware, of the abandonment of the application, to delay the filing of a petition under 37 C.F.R. §1.137(a); or (B) changing (or modifying) the result in *In re Application of S*, 8 USPQ2d 1630 (Comm'r Pat. 1988), in which a petition under 37 C.F.R. §1.137(a) was denied due to the applicant's deliberate deferral in filing a petition under 37 C.F.R. § 1.137. An applicant who deliberately chooses to delay the filing of a petition under 37 C.F.R. §1.137 (as in *Application of S*, 8 USPQ2d at 1632) will not be able to show that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(a)] was unavoidable" or even make an appropriate statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to [37 C.F.R. §1.137(b)] was unintentional."

The dismissal or denial of a petition under 37 C.F.R. §1.137(a) does not preclude an applicant from obtaining relief pursuant to 37 C.F.R. 1. §137(b) on the basis of unintentional delay (unless the decision dismissing or denying the petition under 37 C.F.R. 1.137(a) indicates otherwise). In such an instance, a petition under 37 C.F.R. 1.137(b) may be filed accompanied by the fee set forth in 37 C.F.R. §1.17(m), the required reply, a statement that the entire delay in filing the required reply from the due

> date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional, and any terminal disclaimer required by 37 C.F.R. §1.137(c). Form PTO/SB/61 or PTO/SB/61PCT may be used to file a petition for revival of an unavoidably abandoned application.
>
> ***

Petitioner has failed to satisfy the requirements under the Rule and discussed above.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As of this writing it appears that Petitioner has failed to satisfy the requirements under the Rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c and http://www.uspto.gov/web/forms/sb0064.pdf)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the proper reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and a terminal disclaimer and fee where appropriate. (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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.

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In re Application of :
Elias :
Application No. 29/340,281 : DECISION
Filed: 16 July, 2009 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 19 April, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 27 January, 2010, with reply due under a non-extendable deadline on or before 27 April, 2010.

The application went abandoned by operation of law after midnight 27 April, 2010.

The Office mailed the Notice of Abandonment on 13 May, 2010.

On 16 June, 2010, Petitioner filed, *inter alia*, a petition with fee, averring unavoidable delay pursuant to 37 C.F.R. §1.137(a), with reply in the form of fees due, and an averment that—due to problems with mail delivery—Petitioner did not receive the Notice of Allowance/Allowability

and Fees Due. Use of an unreliable delivery address does not constitute unavoidable delay. Additionally, Petitioner's failure to provide documentary evidence in support of Petitioner's averments is not consistent with the required showing of diligence envisioned in *Pratt*.[1] Thus, Petitioner failed to make the showing as set forth in the Manual of Patent Examining Procedure (MPEP), and the petition was dismissed on 22 February, 2011.

On 19 April, 2011, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of fees due, with a terminal disclaimer and fee, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[4]))

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[1] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887))

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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

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[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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-7-10

TO SPE OF : ART UNIT 2915

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/340,332 Patent No.: D610,104 D619,104

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should corr. be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young LPE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

_____

_____

_____

SPE _____ ART UNIT 2915

UNITED STATES 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.

DIEDERIKS & WHITELAW, PLC
13885 HEDGEWOOD DR., SUITE 317
WOODBRIDGE VA 22193

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Xiaojian James Chen and Jeffrey :
Michael O'Halloran :
Application No. 29/340,342 :
Filed: July 16, 2009 :
Attorney Docket No. MAY012-2547D2 :
Title: BOTTOM MOUNT STYLE REFRIGERATOR :

DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A)

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on July 30, 2010.

This renewed petition is **GRANTED**.

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.

On July 16, 2009, the application was filed, identifying Xiaojian James Chen and Jeffrey Michael O'Halloran as joint inventors. This petition was included on initial deposit, along with, *inter alia*, the petition fee, a declaration that has been executed by Mr. O'Halloran, and the last-known address of non-signing joint inventor Chen.

The original petition pursuant to 37 C.F.R. § 1.47(a) was dismissed via the mailing of a decision on June 1, 2010, which indicated that requirements (1), (3), and (5) of 37 C.F.R. § 1.47(a) have been satisfied, and that the second requirement of Rule 1.47(a) is not applicable, as the original petition was submitted on initial deposit.

With this renewed petition, Petitioner has established that the non-signing inventor has been located at an address in Phoenix, that a complete copy of the application was sent to that address, and that a response has not been received.[1] Receipt of the concurrently submitted Supplemental Application Data Sheet is acknowledged.

As such, the fourth requirement of 37 C.F.R. § 1.47(a) has been satisfied.

Consequently, each of the applicable requirements of 37 C.F.R. § 1.47(a) has been met.

The above-identified application and papers have been reviewed and found 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 ADS that was submitted on July 30, 2010. Notice of the filing of this application will also be published in the Official Gazette.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 Renewed petition, pages 2-3. See also letter dated March 24, 2010.
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

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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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
www.uspto.gov

Xiaojian James Chen
2122 W. Butler Dr.
Apt. 225W
Phoenix, AZ 85021-4245

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Xiaojian James Chen and :
Jeffrey Michael O'Halloran :
Application No. 29/340,342 :
Filed: July 16, 2009 : LETTER
Attorney Docket No. MAY012-2547D2 :
Title: BOTTOM MOUNT STYLE REFRIGERATOR :

Dear Mr. Chen:

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: DIEDERIKS & WHITELAW, PLC
13885 HEDGEWOOD DR., SUITE 317
WOODBRIDGE VA 22193

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

DIEDERIKS & WHITELAW, PLC
13885 HEDGEWOOD DR., SUITE 317
WOODBRIDGE VA 22193

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of :
Xiaojian James Chen and Jeffrey :
Michael O'Halloran :
Application No. 29/340,343 : DECISION ON RENEWED
Filed: July 16, 2009 : PETITION PURSUANT TO
Attorney Docket No. MAY012- : 37 C.F.R. § 1.47(A)
2547D3 :
Title: BOTTOM MOUNT STYLE :
REFRIGERATOR :

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on July 30, 2010.

This renewed petition is **GRANTED**.

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.

On July 16, 2009, this application was filed, identifying Xiaojian James Chen and Jeffrey Michael O'Halloran as joint inventors. An original petition pursuant to 37 C.F.R. § 1.47(a) was included on initial deposit, along with, *inter alia*, the petition fee, a declaration that has been executed by Mr. O'Halloran, and the last-known address of non-signing joint inventor Chen.

The original petition pursuant to 37 C.F.R. § 1.47(a) was dismissed via the mailing of a decision on June 1, 2010, which indicated that requirements (1), (3), and (5) of 37 C.F.R. § 1.47(a) had been satisfied, and that the second requirement of Rule 1.47(a) is not applicable, as the original petition was submitted on initial deposit.

With this renewed petition, Petitioner has established that the non-signing inventor has been located at an address in Phoenix, that a complete copy of the application was sent to that address, and that a response has not been received.[1] Receipt of the concurrently submitted Supplemental Application Data Sheet is acknowledged.

As such, the fourth requirement of 37 C.F.R. § 1.47(a) has been satisfied.

Consequently, each of the applicable requirements of 37 C.F.R. § 1.47(a) has been met.

The above-identified application and papers have been reviewed and found 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 ADS that was submitted on July 30, 2010. Notice of the filing of this application will also be published in the Official Gazette.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to

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1 Renewed petition, pages 2-3. See also letter dated March 24, 2010.

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/
Paul Shanoski
Senior Attorney
Office of Petitions

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Xiaojian James Chen
2122 W. Butler Dr.
Apt. 225W
Phoenix, AZ 85021-4245

MAILED
SEP 20 2010
OFFICE OF PETITIONS

In re Application of :
Xiaojian James Chen and :
Jeffrey Michael O'Halloran :
Application No. 29/340,343 :
Filed: July 16, 2009 : LETTER
Attorney Docket No. MAY012-2547D3 :
Title: BOTTOM MOUNT STYLE REFRIGERATOR :

Dear Mr. Chen:

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: DIEDERIKS & WHITELAW, PLC
13885 HEDGEWOOD DR., SUITE 317
WOODBRIDGE VA 22193

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of :
Keith Kristiansen et al : DECISION GRANTING PETITION
Application No. 29/340,391 : UNDER 37 CFR 1.313(c)(3) (CPA)
Filed: July 17, 2009 :
Attorney Docket No. 041501-7056 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed February 9, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on January 6, 2011 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed February 9, 2011.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2912 for processing of the CPA and consideration of the concurrently filed amendment/drawing.

/Karen Creasy/
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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MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE, IL 60048-5343

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Application of
Daniel Cruz Ferreira Mota Veiga, et al.
Application No. 29/340,398
Filed: July 17, 2009
Attorney Docket No. CS37024

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before December 1, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed September 1, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 2, 2010. A Notice of Abandonment was mailed on December 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $860 issue fee, (2) the petition fee of $1620, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance and Fee(s) Due is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 further 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
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Patent No. D618706 :
Issue Date: June 29, 2010 :
Application No. 29/340,487 : NOTICE
Filed: July 20, 2009 :
Attorney Docket No. 11492-681 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on October 7, 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
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Patent No. : D,619,542S
Ser. No. : 29/340,578
Inventor(s) : Svoboda et al.
Issued : Jul. 13, 2010
Title : TRAILER BRAKE CONTROLLER
Docket No. : 205D016B
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT
191 N WACKER DRIVE SUITE 3700
CHICAGO IL 60606

MAILED
NOV 08 2011
OFFICE OF PETITIONS

In re
Mei Lin
Application No. 29/340,635
Filed: July 22, 2009
Patent No. D613032
Issued: April 6, 2010

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed October 20, 2011.

The fee deficiency submission under 37 CFR 1.28 of $860, representing $140 for the basic filing fee, $70 for the search fee, $90 for the examination fee, and $560 for the issue fee, is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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DEC 14 2010

OFFICE OF PETITIONS

APEX JURIS, PLLC
12733 LAKE CITY WAY NORTHEAST
SEATTLE WA 98125

In re Application of :
Azuma, et al. :
Application No. 29/340,644 : ON PETITION
Filed: July 22, 2009 :
Attorney Docket No. 09.15.01.USD :
For: PIPE SUPPORT BASE

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice of Allowability, mailed February 22, 2010, which set a three month period for reply. This application became abandoned on May 23, 2010 for failure to file corrected drawings. A Notice of Abandonment was mailed on June 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a corrected drawing (2) the petition fee of $810.00; (3) a proper statement of unintentional delay, and (4) a terminal disclaimer accompanied by the required $70.00 fee.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

Applicants originally claimed the priority of Japanese Design Application 2009-5527 when the present application was filed. However, applicants listed an incorrect priority claim date when the present application was filed and failed to submit a certified copy of the priority document before the issue fee was paid.

These issues are not petitionable. See MPEP 201.014(a). They are not properly before the Office of Petitions. Applicants are encouraged to file a separate paper requesting benefit of Japanese Application No. 2009-5527, filed March 12, 2009.

As noted in MPEP 201.14(a) IX. APPLICATION IN ISSUE: When the claim for foreign priority or the certified copy of the foreign application is filed after the date of payment of the issue fee but prior to the date of grant of the patent, the priority claim or certified copy must be accompanied by a processing fee set forth in 37 CFR 1.17(i). The priority claim or certified copy will be placed in the file record but there will be no review of the papers and the patent when published will not include the priority claim. A certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323 can be filed to have the priority claim or certified copy considered after publication of the patent.

This application is being referred to Publishing Division for consideration of the drawings filed on September 30, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

DEC 14 2010

OFFICE OF PETITIONS

APEX JURIS, PLLC
12733 LAKE CITY WAY NORTHEAST
SEATTLE WA 98125

In re Application of :
Azuma, et al. :
Application No. 29/340,649 : ON PETITION
Filed: July 22, 2009 :
Attorney Docket No. 09.15.04.USD :
For: PIPE SUPPORT BASE

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice of Allowability, mailed March 19, 2010, which set a three month period for reply. This application became abandoned on June 20, 2010 for failure to file corrected drawings. A Notice of Abandonment was mailed on July 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a corrected drawing (2) the petition fee of $810.00; (3) a proper statement of unintentional delay, and (4) a terminal disclaimer accompanied by the required $70.00 fee.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

Applicants originally claimed the priority of Japanese Design Application 2009-5527 when the present application was filed. However, applicants listed an incorrect priority claim date when the present application was filed and failed to submit a certified copy of the priority document before the issue fee was paid.

These issues are not petitionable. See MPEP 201.014(a). They are not properly before the Office of Petitions. Applicants are encouraged to file a separate paper requesting benefit of Japanese Application No. 2009-5527, filed March 12, 2009.

As noted in MPEP 201.14(a) IX. APPLICATION IN ISSUE: When the claim for foreign priority or the certified copy of the foreign application is filed after the date of payment of the issue fee but prior to the date of grant of the patent, the priority claim or certified copy must be accompanied by a processing fee set forth in 37 CFR 1.17(i). The priority claim or certified copy will be placed in the file record but there will be no review of the papers and the patent when published will not include the priority claim. A certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323 can be filed to have the priority claim or certified copy considered after publication of the patent.

This application is being referred to Publishing Division for consideration of the drawings filed on September 30, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
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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SEP 17 2010

OFFICE OF PETITIONS

HOPE BALDAUFF HARTMAN, LLC
MICHAEL J. BALDAUFF, JR.
1720 PEACHTREE STREET, N.W
SUITE 1010
ATLANTA, GA 30309

In re Application of
Myron D. Deese
Application No. 29/340,663
Filed: July 23, 2009
Attorney Docket No. 07-0603-USD2/60051.23US02

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue fee on or before August 3, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 3, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 4, 2010. A Notice of Abandonment was mailed on September 1, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to timely pay the issue and publication fee. 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.

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) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOPE BALDAUFF HARTMAN, LLC
MICHAEL J. BALDAUFF, JR.
1720 PEACHTREE STREET, N.W
SUITE 1010
ATLANTA, GA 30309

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of :
Myron D. Deese :
Application No. 29/340,663 : DECISION GRANTING PETITIONS
Filed: July 23, 2009 : UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 07-0603- : 37 CFR 1.313(c)(2)
USD2/60051.23US02

This is a decision on the renewed petitions, filed September 17, 2010, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue and publication fees on or before August 3, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 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 Continued Prosecution Application (CPA) under 37 CFR 1.53(d); (2) the petition fee of $1620; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the reply to the Notice of abandonment is accepted as having been unintentionally delayed.

The terminal disclaimer is accepted and has been made of record.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 Technology Center.

This matter is being referred to Technology Center AU 2915 for processing the CPA and for consideration of the Information Disclosure Statement submitted on August 12, 2010.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRINKER BIDDLE & REATH LLP
ATTN: PATENT DOCKET DEPT.
191 N. WACKER DRIVE, SUITE 3700
CHICAGO IL 60606

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Patent No. D613,033
Issued: April 6, 2010
Application No. 29/340,673
Filed: July 23, 2009
Attorney Docket No: 186512-3267DES

ON PETITION

This is a decision regarding the request for acceptance of a fee deficiency submission and loss of small entity status filed October 20, 2011 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.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.

The fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

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SEP 22 2010

OFFICE OF PETITIONS

In re Application of :
Thomas Perelli et al. :
Application No. 29/340,753 : ON PETITION
Filed: July 24, 2009 :
Attorney Docket No. 025736-000072 :

This is a decision on the Petition to Expunge Document Under 37 CFR 1.181(a) filed April 2, 2010 which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed.**

Petitioner requests that the response to the Notice to File Missing Parts (Notice) filed August 31, 2009 be expunged from the record. Petitioner states that the information submitted was intended for another application and was erroneously filed in the instant application.

As this is properly treated as a petition under 37 CFR 1.59(b), a petition fee set forth in 37 CFR 1.17(g) is required and has been charged to petitioner's deposit account.

The petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

Petitioner requests that the declaration filed with the petition be entered as the proper response to the Notice. However, review of the file indicates the above identified application is currently

abandoned. The response to the Notice filed on August 31, 2009 was not a proper response as the declaration did not identify the proper application number and filing date as required by the Notice. The declaration filed with the instant petition is not timely as the Notice mailed August 5, 2009 set a two (2) month period for response.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

MAILED

NOV 03 2010

OFFICE OF PETITIONS

In re Application of :
Thomas Perelli et al. :
Application No. 29/340,753 : ON PETITION
Filed: July 24, 2009 :
Attorney Docket No. 025736-000072 :

This is a decision on the renewed Petition to Expunge Document Under 37 CFR 1.59(b) filed October 22, 2010 to expunge information from the above identified application.

The renewed petition is **dismissed.**

Petitioner requests that the response to the Notice to File Missing Parts (Notice) filed August 31, 2009 be expunged from the record. Petitioner states that the information submitted was intended for another application and was erroneously filed in the instant application.

The renewed petition is deficient because there is still no statement that:

(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.

These statements were indicated as required in the petition decision mailed September 22, 2010.

Petitioner is directed to MPEP 724.05(II).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JAN 03 2011

OFFICE OF PETITIONS

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

In Re application of
Thomas Perelli et al.
Application No. 29/340,753
Filed: July 24, 2009
Attorney Docket No. 025736-000072

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.59(b), filed December 15, 2010 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that the response to the August 5, 2009 Notice to File Missing Parts of Nonprovisional Application, filed August 31, 2009, be expunged from the record. Petitioner states that the information submitted was erroneously filed in the instant application.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. The information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

In accordance with MPEP 724.05(III), no petition is needed since the papers in question were clearly identified for a different application. Therefore, the petition fee is refunded.

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BOURQUE & ASSOCIATES
INTELLECTUAL PROPERTY ATTORNEYS, P.A.
835 HANOVER STREET
SUITE 301
MANCHESTER NH 03104

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
HUOTARI, et al :
Application No. 29/340,768 : DECISION ON PETITION
Filed: July 24, 2009 :
Attorney Docket No. MAPING-D009XX :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 18, 2011, to revive the above-identified design 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 Allowability, mailed August 12, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on November 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $810; (3) an adequate statement of unintentional delay; and (4) a Terminal Disclaimer.

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.

The replacement drawings filed with the petition on January 18, 2011, has been approved by the Technology Center.

The Terminal Disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6735.

This application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of
Jean-Yves Bosc et al.
Application No. 29/340,902
Filed: July 28, 2009
Attorney Docket No. GER 1424US

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47 FOR FILING WITHOUT INVENTOR SIGNATURE, filed November 8, 2010.[1]

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the 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 July 28, 2009 without an executed oath or declaration. Accordingly, on August 11, 2009, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration.

In response, a petition was filed March 10, 2010 under 37 CFR 1.47(a), with a five month extension of time request, because petitioners had not been successful in securing an executed oath or declaration from joint inventor JeanYves Bosc. The evidence submitted indicated that the application papers (i.e. the Specification, Figures and Combined Declaration and Power of Attorney) were sent to Mr. Bosc at his last known address of 49 rue Gornet Boiven, 10 100 Saint Hilaire-Sous-Romilly on December 17, 2009 however, the mailing was returned to sender marked "mailbox not found."

The petition was dismissed in a decision mailed May 7, 2010 because while petitioners argued that Mr Jean-Yves Bosc moved to another area in France without leaving anyone his new address and that they were unable to locate him, a showing that

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[1] 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.

diligent efforts had been made to locate the non-signing inventor had not been presented.[2]

With the instant petition and four month extension of time request, Petitioners have argued that the efforts to locate Mr. Bosc included directory searches conducted via internet sites (bing.com, yahoo.fr, google.fr) and failed to yield any phone number, mailing address, or email address for Mr. Bosc. As such, Mr. Bosc' last known address continues to be as previously indicated.

The petition does not however include any corroborating evidence of the efforts employed to locate Mr. Bosc. In view of the evidence presented, petitioners have provided the statement of Christine Paven-Bernard regarding the internet searches but has not presented evidence of the searches to demonstrate the efforts utilized to locate non-signing inventor Bosc and thus, under the circumstances, it is concluded that petitioner has not demonstrated that this is an extraordinary situation, warranting waiver of the rules.[3]

The present petition therefore still lacks items (1).

Petitioner must provide proof of the efforts employed to locate Mr. Bosc, not just a statement that efforts were employed, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

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

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 20

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[2]MPEP 409.03(d).

[3]MPEP 409.03(d).

UNITED STATES 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
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
Jean-Yves Bosc et al. :
Application No. 29/340,902 : DECISION REFUSING STATUS
Filed: July 28, 2009 : UNDER 37 CFR 1.47(a)
Attorney Docket No. GER 1424US :

This decision is in response to the REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47 FOR FILING WITHOUT INVENTOR SIGNATURE, filed July 7, 2011.[1]

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on July 28, 2009 without an executed oath or declaration. Accordingly, on August 11, 2009, a Notice To File Missing Parts of Application was mailed, requiring a properly executed oath or declaration. In response, a petition was filed March 10, 2010 under 37 CFR 1.47(a), with a five month extension of time request, because petitioners had not been successful in securing an executed oath or declaration from joint inventor JeanYves Bosc. The evidence submitted indicated that the application papers (i.e. the Specification, Figures and Combined Declaration and Power of Attorney) were sent to Mr. Bosc at his last known address of 49 rue Gornet Boiven, 10 100 Saint Hilaire-Sous-Romilly on December 17, 2009, however, the mailing was returned to sender marked "mailbox not found." The petition was dismissed in a decision mailed May 7, 2010 because while petitioners argued that Mr Jean-Yves Bosc moved to another area in France without leaving anyone his new address and that they were unable to locate him, a showing that diligent efforts had been made to locate the non-signing inventor had not been presented.[2] A request for reconsideration filed November 8, 2010 with a four month extension of time request argued that the efforts to locate Mr. Bosc included directory searches conducted via internet sites (bing.com, yahoo.fr, google.fr) and failed to yield any phone number, mailing address, or email address for Mr. Bosc. As the petition did not include any corroborating evidence of the efforts employed to locate Mr. Bosc, the petition was dismissed in a decision mailed December 7, 2010.

Comes now petitioner with a renewed petition and a five month extension of time.

---

[1] 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.

[2] MPEP 409.03(d).

In response to the decision dismissing the petition filed November 8, 2010, the request for reconsideration bears proof that efforts were undertaken to locate the non-signing inventor but those efforts were unsuccessful. The evidence is therefore sufficient to establish diligence as required by the regulation.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 2915 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/31/11

TO SPE OF : ART UNIT: 2911 Attn: BROOKS CATHRON C (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/340980 Patent No.: D627069S

CofC Mailroom date: 01/10/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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: _____

CATHRON C. BROOKS
SUPERVISORY PATENT EXAMINER

SPE 2911 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APEX JURIS, PLLC
12733 LAKE CITY WAY NORTHEAST
SEATTLE, WA 98125

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Hsueh-Yu Lin :
Application No. 29/341,053 : ON PETITION
Filed: July 29, 2009 :
Attorney Docket No.: 09.13.03.USD :

This is a decision on the petition, filed August 20, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed March 24, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 25, 2010. A Notice of Abandonment was mailed on July 12, 2010. On August 20, 2010, the present petition was filed.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) (1) the required reply,[1] 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 petition lacks items (4) above.

[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.

Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application and the terminal disclaimer must also apply to any patent granted on a continuing design application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. To be effective, the terminal disclaimer must include the fee of $140 ($70 if small entity) pursuant to 37 CFR 1.20(d) and be signed in accordance with 37 CFR 1.33(b). If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] 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

APEX JURIS, PLLC
12733 LAKE CITY WAY NORTHEAST
SEATTLE, WA 98125

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of :
Hsueh-Yu Lin, et al. :
Application No. 29/341,053 : ON PETITION
Filed: July 29, 2009 :
Attorney Docket No.: 09.13.03.USD :

This is a decision on the renewed petition, filed October 8, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed March 24, 2010. A Notice of Abandonment was mailed on July 25, 2010. On August 20, 2010, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed October 1, 2010. In response, on October 8, 2010, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $810; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and the $70 fee required by 37 CFR 1.137(d).

The terminal disclaimer filed October 8, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 05 2010

OFFICE OF PETITIONS

VINCENT G. LO TEMPIO
P.O. BOX 820
EAST AMHERST NY 14051

In re Application of :
Joseph V. MATTUCCI :
Application No. 29/341,264 : ON PETITION
Filed: August 3, 2009 :
Attorney Docket No. JM-P01US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 23, 2010.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file corrected drawings on or before May 24, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 22, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 25, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (4).

A terminal disclaimer and the $140 ($70 if small entity) terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted on the application equivalent to the period of abandonment of the application, and must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.

If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

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.

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.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: VINCENT G. LO TEMPIO
69 DELAWARE AVENUE
SUITE 1002
BUFFALO, NY 14202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 01 2010

OFFICE OF PETITIONS

VINCENT G. LO TEMPIO
P.O. BOX 820
EAST AMHERST NY 14051

In re Application of :
Joseph V. MATTUCCI :
Application No. 29/341,264 : ON PETITION
Filed: August 3, 2009 :
Attorney Docket No. JM-P01US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2010.

The petition is **DISMISSED**.

The application became abandoned for failure to timely file corrected drawings on or before May 24, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 22, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 25, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

With respect to item (1): The replacement drawings filed June 23, 2010, have not been approved by the examiner assigned to this application. In this regard, the drawings were not approved because the quality is poor and are not suitable for reproduction. Inquiries concerning the drawings should be directed to the Examiner at (571) 272-8706.

The Terminal Disclaimer filed August 10, 2010, has been acknowledged by the Office.

The Power of Attorney filed August 10, 2010, has been accepted and recorded.

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.

/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

VINCENT G. LOTEMPIO
P.O. BOX 820
EAST AMHERST NY 14051

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of :
Joseph V. MATTUCCI :
Application No. 29/341,264 : DECISION ON PETITION
Filed: August 3, 2009 :
Attorney Docket No. JM-P01US :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2010, to revive the above-identified design 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 Allowability, mailed February 22, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on May 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 replacement drawings; (2) the petition fee of $810; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6735.

This application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-10-12 **Paper No.:** _____

TO SPE OF : ART UNIT 2912

SUBJECT : Request for Certificate of Correction for Appl. No. 29/341,328 Patent No.: D605 627

CofC mailroom date: 12-14-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Figs.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

E Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

STELLA M. REID
SUPERVISORY PATENT EXAMINER
SPE

2912
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED

FEB 08 2011

OFFICE OF PETITIONS

In re Application of :
Hattori :
Application No. 29/341,375 : DECISION ON PETITION
Filed: August 4, 2009 : PURSUANT TO
Attorney Docket No.: 141885 : 37 C.F.R. § 1.181
Title: SEWING MACHINE :

This is a decision on the petition filed December 7, 2010, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 18, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on September 19, 2010.[2] A Notice of Abandonment was mailed on December 2, 2010.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. §§ 1.33(a) - (d) sets forth, *in toto*:

> (a) Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a

1 See MPEP § 710.02(e)(III).
2 It is noted that a "corrected notice of allowance and fee(s) due" was mailed on August 10, 2010. However, this mailing has been reviewed, and an indication that the June 18, 2010 mailing was withdrawn has not been located therein.

clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76 (b)(1) and 1.63 (c)(2)) as the correspondence address. The Office will direct, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
(1) Prior to filing of § 1.63 oath or declaration by any of the inventors. If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.
(2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
(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 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.
(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the correspondence address. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken.

> (d) A "correspondence address" or change thereto may be filed with the Patent and Trademark Office during the enforceable life of the patent. The "correspondence address" will be used in any correspondence relating to maintenance fees unless a separate "fee address" has been specified. See § 1.363 for "fee address" used solely for maintenance fee purposes.

ANALYSIS

With this petition, Petitioner has indicated that the notice of June 18, 2010 was not received as it was been sent to an incorrect address. Petitioner has argued that the Office should have electronically sent the "correspondence to the email address cited on the Application Data Sheet filed with the original application."

The electronic file has been reviewed, and Petitioner's argument is not persuasive for the following two reasons: the delivery method that was set forth on filing was not electronic, and on August 25, 2009, Applicant explicitly requested that the address be changed to the physical address to which the notice of June 18, 2010 was sent. A discussion follows.

First, an Application Data Sheet was included on filing, which lists the correspondence address as "Customer Number 25944, Email Address email@oliff.com." Office records show that as of January 20, 2010, the delivery mode that is associated with this customer number is electronic. As such, prior to January 20, 2010, this customer number was associated with traditional paper mailing, and not electronic notification as Petitioner has suggested.

Office records show that on August 4, 2009, Customer Number 25944 was associated with this application (which at that time was the physical address of Oliff & Berridge, PLC, P.O. Box 320850, Alexandria, VA, 22320-4850).

Second, the electronic file shows that this application was deposited without an oath or declaration. A notice of missing parts was mailed on August 17, 2009, and on August 25, 2009, a fully executed declaration (which contains the attorney docket number that is associated with this application) was received in the Office. On the third page of this declaration, the following instruction appears:

> "Send Correspondence To: OLIFF & BERRIDGE, PLC, P.O. BOX 19928, ALEXANDRIA, VIRGINIA, 22314."

Office records show that pursuant to Applicant's explicit instruction, this application was disassociated from customer number 25944, and the correspondence address was changed to

"Oliff & Berridge, PLC, P.O. Box 19928, Alexandria, Virginia, 22314."[3]

As such, the notice of June 18, 2010 was properly mailed to the address of record, pursuant to 37 C.F.R. § 1.33(a).

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Pursuant to 37 C.F.R. § 1.181." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may wish to consider filing a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b). Unless Petitioner believes that he can successfully assert that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[8] All other inquiries

---

3 The undersigned confirmed this with the Electronic Business Center on January 31, 2010.
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300: please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 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.

concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

MAILED

JUN 17 2011

OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Hattori	:	
Application No. 29/341,375	:	DECISION ON RENEWED PETITION
Filed: August 4, 2009	:	PURSUANT TO
Attorney Docket No.: 141885	:	37 C.F.R. § 1.181
Title: SEWING MACHINE	:	

This is a decision on the renewed petition filed February 16, 2011, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition is **DISMISSED.**

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 18, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on September 19, 2010.[2] A Notice of Abandonment was mailed on December 2, 2010.

RELEVANT PORTIONS OF THE C.F.R. and M.P.E.P.

37 C.F.R. §§ 1.33(a) - (d) sets forth, *in toto*:

> (a) Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth

1 See MPEP § 710.02(e)(III).
2 It is noted that a "corrected notice of allowance and fee(s) due" was mailed on August 10, 2010. However, this mailing has been reviewed, and an indication that the June 18, 2010 mailing was withdrawn has not been located therein.

in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76 (b)(1) and 1.63 (c)(2)) as the correspondence address. The Office will direct, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
(1) Prior to filing of § 1.63 oath or declaration by any of the inventors. If a § 1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.
(2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
(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 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.
(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the correspondence address. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken.

> (d) A "correspondence address" or change thereto may be filed with the Patent and Trademark Office during the enforceable life of the patent. The "correspondence address" will be used in any correspondence relating to maintenance fees unless a separate "fee address" has been specified. See § 1.363 for "fee address" used solely for maintenance fee purposes.

M.P.E.P. § 707.13 sets forth, *in toto*:

> Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. Upon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the Office action was not mailed to the correct correspondence address, it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter **>along with a copy of the Office action may (emphasis added) be sent to the first named inventor or assignee (if available)< informing him or her of the returned action. **>The time period for reply to the Office action will be restarted to run from the mailing date of the letter informing applicant of the returned action<.
>
> If the Office is not finally successful in delivering the letter, it is placed, with the envelope, in the file wrapper. For an Image File Wrapper (IFW), a copy of the letter and a copy of the envelope should be added to the IFW (see IFW Manual). If the period dating from the remailing elapses with no communication from applicant, the application is abandoned.

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 7, 2010, where Petitioner indicated that the notice of June 18, 2010 was not received as it was been sent to an incorrect address. Petitioner argued that the Office should have electronically sent the "correspondence to the email address cited on the Application Data Sheet filed with the original application." The original petition pursuant to Rule 1.181(a) was dismissed via the mailing of a decision on February 8, 2011, which indicated that the electronic record does not support a finding that the holding of abandonment should be withdrawn for two reasons. First, the delivery method that was set forth on filing was not electronic, and secondly, on August 25, 2009, Applicant explicitly requested that the address be changed to the physical address to which the notice of June 18, 2010 was sent. More specifically, pages three and four of the decision indicated the following:

> "First, an Application Data Sheet was included on filing, which lists the correspondence address as "Customer Number 25944, Email Address email@oliff.com." Office records show that as of January 20, 2010, the delivery mode that is associated with this customer number is electronic. As such, prior to January 20, 2010, this

> customer number was associated with traditional paper mailing, and not electronic notification as Petitioner has suggested.
>
> Office records show that on August 4, 2009, Customer Number 25944 was associated with this application (which at that time was the physical address of Oliff & Berridge, PLC, P.O. Box 320850, Alexandria, VA, 22320-4850).
>
> Second, the electronic file shows that this application was deposited without an oath or declaration. A notice of missing parts was mailed on August 17, 2009, and on August 25, 2009, a fully executed declaration (which contains the attorney docket number that is associated with this application) was received in the Office. On the third page of this declaration, the following instruction appears:
>
> "Send Correspondence To: OLIFF & BERRIDGE, PLC, P.O. BOX 19928, ALEXANDRIA, VIRGINIA, 22314."
>
> Office records show that pursuant to Applicant's explicit instruction, this application was disassociated from customer number 25944, and the correspondence address was changed to "Oliff & Berridge, PLC, P.O. Box 19928, Alexandria, Virginia, 22314."[3]
>
> As such, the notice of June 18, 2010 was properly mailed to the address of record, pursuant to 37 C.F.R. § 1.33(a)."

With this renewed petition, Petitioner argues that this finding is erroneous, based on the following four points:

1. The Office failed to comply with MPEP § 707.13 based on two rationales. First, if the Office believed that the mailing of June 18, 2010 was mailed to the incorrect address, the Office failed to re-mail the communication to the correct address.[4] Second, if the Office believed that the mailing of June 18, 2010 was mailed to the correct address, the Office failed to mail a letter along with a copy of the Office action to the first named inventor or assignee.[5]

2. The submission of August 25, 2009 should not have changed the correspondence address, since 37 C.F.R. § 1.33(a) sets forth, in pertinent part, "[i]f more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address." Petitioner argues that the August 25, 2009 response "lists the correct address (P.O. Box 320850, Alexandria VA) in the bottom-left-hand corner, and this address is the same address as the address of

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3 The undersigned confirmed this with the Electronic Business Center on January 31, 2010.
4 Renewed petition, pages 2-3. It is noted that a duplicate copy of the June 18, 2010 mailing was mailed to the same address on August 10, 2010.
5 Renewed petition, pages 2-3.

record for the customer number...[t]herefore more than one correspondence address was specified in a single document."[6]

3. The delivery method at the time of the mailing of the Notice of Allowance was electronic for the customer number that is associated with the application, and as such, the Notice of Allowance should have been mailed to the e-mail address of record for the customer number associated with this application.

4. It is irrelevant whether the Applicant or the PTO is responsible for the breach in communication resulting in the abandonment - pursuant to M.P.E.P. § 711.03(c), Applicant may secure the withdrawal of the holding of abandonment by proving that that the Notice of Allowance was not received.

Regarding the first argument, it is noted that the emphasized portion of M.P.E.P. § 707.13, reproduced above, makes clear that the Office is under no obligation to re-mail a communication to the first named inventor or the assignee if the USPS is unable to deliver a mailing that is sent to an address that is believed to be correct.

Regarding the second argument, Petitioner's assertion is inaccurate. The Office agrees that the "RESPONSE TO NOTICE TO FILE MISSING PARTS WITH DECLARATION" contains the address "P.O. Box 320850, Alexandria, Virginia, 22320-4850" in the bottom left-hand corner. However, the mere fact that this address happens to coincide with the address that is associated with a particular customer number does not mean that said customer number appears on the same page. As such, "more than one correspondence address" is not "specified in a single document" within the meaning of 37 C.F.R. § 1.33(a). Petitioner's argument would be more convincing if the "RESPONSE TO NOTICE TO FILE MISSING PARTS WITH DECLARATION" contained both the text "P.O. Box 320850, Alexandria, Virginia, 22320-4850" and "Customer Number 25944," however such is not the case.

Regarding the third argument, as was indicated in the decision on the original petition, the submission of August 25, 2009 disassociated this application from Customer Number 25944, and resulted in the change of the correspondence address to "Oliff & Berridge, PLC, P.O. Box 19928, Alexandria, Virginia, 22314." As such, this application was not associated with Customer Number 25944 at the time of the mailing of the Notice of Allowance on June 18, 2010. Since the application was not associated with Customer Number 25944 at the time of the mailing of the Notice of Allowance, the delivery method that was associated with the Customer Number at that time is not relevant to the mailing.

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6 Renewed petition, pages 3-4.

Regarding the fourth argument, Petitioner is mistaken. Section 711.03(c) of the M.P.E.P. sets forth a method by which an applicant may secure the withdrawal of a holding of abandonment by proving that that the relevant Office communication was not received "at the correspondence address of record with the USPTO." As such, the fact that Petitioner changed the correspondence address by disassociating this application from the Customer Number via the August 25, 2009 submission is not "moot and irrelevant," as Petitioner has asserted on pages 5-6 of the renewed petition. Rather, it is controlling.

It follows that the record does not support a finding that the holding of abandonment should be withdrawn.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Pursuant to 37 C.F.R. § 1.181." This is not a final agency action within the meaning of 5 U.S.C § 704.

Thereafter, there will be no further reconsideration of this matter[7, 8].

As it does not appear that Petitioner will be able to establish that the holding of abandonment should be withdrawn, Petitioner should file a petition to revive this application pursuant to 37 C.F.R. §§ 1.137(a)[9] and/or (b).[10] Unless Petitioner believes

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7 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. § 6; 37 C.F.R. §§ 1.181, 182, 183.

8 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. § 1.137(e), will **not** apply to that decision.

9 The fee that is associated with the filing of this petition is presently set at $270 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0061.pdf.

10 The fee that is associated with the filing of this petition is presently set at $810 for a small entity. Petitioner may download the associated form here: http://www.uspto.gov/web/forms/sb0064.pdf.

that he can successfully assert that the entire period of delay was unavoidable, he may wish to file pursuant to the unintentional standard. The petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b) may be filed concurrently with a Second Renewed petition pursuant to 37 C.F.R. § 1.181 or independently thereof.

Petitioner's only relief is a petition under 37 C.F.R. § 1.137, and - having been made aware of this reality - any delay in promptly seeking relief under 37 C.F.R. §§ 1.137(a) and/or (b) may be considered evidence of intentional delay and an absolute bar to revival.

Any subsequent filing pertaining to the abandonment of this application should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[11] hand-delivery,[12] or facsimile.[13] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[14]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[15] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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11 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
12 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
13 (571) 273-8300: please note this is a central facsimile number.
14 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
15 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

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JUL 12 2011
OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of :
Hattori :
Application No. 29/341,375 : DECISION ON PETITION
Filed: August 4, 2009 : PURSUANT TO
Attorney Docket No.: 141885 : 37 C.F.R. § 1.137(B)
Title: SEWING MACHINE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed June 22, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed June 18, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on September 19, 2010.[2] A Notice of Abandonment was mailed on December 2, 2010.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 7, 2010, and was dismissed via the mailing of a decision on February 8, 2011. A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on February 16, 2011 and was dismissed via the mailing of a decision on June 17, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

1 See MPEP § 710.02(e)(III).
2 It is noted that a "corrected notice of allowance and fee(s) due" was mailed on August 10, 2010. However, this mailing has been reviewed, and an indication that the June 18, 2010 mailing was withdrawn has not been located therein.

(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.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has included the petition and issue fees,[3] along with a statement that is being construed as the proper statement of unintentional delay. As such, requirements (1) - (3) of Rule 1.137(b) have been satisfied.

Regarding the fourth requirement, Petitioner will note that since this application is a design application, both a terminal disclaimer and the associated fee are required. See 37 C.F.R §§ 1.137(b)(4) and (d). Neither of these items appears to have been submitted to the Office.

It follows that this petition must be dismissed.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C § 704.

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3 Petitioner has asserted that the publication fee was included with this petition; however this appears to be a typographical error.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[8] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300: please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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AUG 05 2011

Paper No.

OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Hattori	:	
Application No. 29/341,375	:	DECISION ON RENEWED PETITION
Filed: August 4, 2009	:	PURSUANT TO
Attorney Docket No.: 141885	:	37 C.F.R. § 1.137(B)
Title: SEWING MACHINE	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed July 22, 2011, to revive the above-identified application.

This renewed petition pursuant to 37 C.F.R. § 1.137(b) 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 and Issue Fee Due, mailed June 18, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on September 19, 2010.[2] A Notice of Abandonment was mailed on December 2, 2010.

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on December 7, 2010, and was dismissed via the mailing of a decision on February 8, 2011. A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed on February 16, 2011 and was dismissed via the mailing of a decision on June 17, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

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1 See MPEP § 710.02(e)(III).

2 It is noted that a "corrected notice of allowance and fee(s) due" was mailed on August 10, 2010. However, this mailing has been reviewed, and an indication that the June 18, 2010 mailing was withdrawn has not been located therein.

(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.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statements contained in the original petition and this renewed petition vary from the language required by 37 C.F.R. § 1.137(b)(3), the statements contained in these two petitions are being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statements contained in these petitions.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on June 22, 2011, along with the petition and issue fees and a statement that is being construed as the proper statement of unintentional delay. The original petition pursuant to 37 C.F.R. § 1.137(b) was dismissed via the mailing of a decision on July 12, 2011, which indicated that requirements (1) - (3) of Rule 1.137(b) have been satisfied.

With this renewed petition, Petitioner has included a terminal disclaimer, the associated fee, and a statement that is being construed as the proper statement of unintentional delay.

It follows that the fourth requirement of Rule 1.137(b) has been satisfied. As such, each of the four requirements of Rule 1.137(b) has been satisfied.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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 Office of Patent Publication 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 Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/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.

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JUL 01 2011

OFFICE OF PETITIONS

COHEN & GRIGSBY, P.C.
625 LIBERTY AVENUE
PITTSBURGH PA 15222-3152

In re Patent No. D626847 :
Issued: November 9, 2010 :
Application No.: 29/341,505 : NOTICE
Filed: August 6, 2009 :
Attorney Docket No: **09-185 DES** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/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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COHEN & GRIGSBY, P.C.
625 LIBERTY AVENUE
PITTSBURGH, PA 15222-3152

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Patent No. D,635,766 :
Issue Date: April 12, 2011 :
Application No. 29/341,506 : NOTICE
Filed: August 6, 2009 :
Patentee(s): Peter Roesler :

This is a Notice regarding your "NOTIFICATION OF CHANGE IN ENTITY STATUS" filed on April 13, 2011, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Frederick L. Tolhurst 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Terence P. O'Brien
Wilson Sporting Goods Co.
8750 W. Bryn Mawr Avenue
Chicago IL 60631

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of :
Severa, et al. : DECISION ON PETITION
Application No. 29/341,721 :
Filed: August 11, 2009 :
Atty. Dkt. No.: WR0239C :

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2010.

The petition is **GRANTED**.

This application became abandoned October 15, 2010 for failure to timely reply to the Notice of Allowability (Notice) mailed July 14, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed October 29, 2010.

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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

NOV 22 2010

OFFICE OF PETITIONS

Adam S. Langley
1132 Pine Hill Rd.
McLean VA 22101

In re Application of :
Carpenter : DECISION ON PETITION
Application No. 29/341,755 :
Filed: August 12, 2009 :
Atty. Dkt. No.: CARP-105 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2010.

The petition is **GRANTED**.

This application became abandoned August 18, 2010 for failure to timely reply to the Notice of Allowability (Notice) mailed May 17, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed September 1, 2010.

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 Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JUN 28 2011

OFFICE OF PETITIONS

GEOFFREY E. DOBBIN, PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

In re Application of :
Haley et al. :
Application No. 29/341,808 : ON PETITION
Filed: August 12, 20091 :
Attorney Docket No. GDRMF01V3 :
For: BATTERY ASSIST DEVICE

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed August 25, 2009, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on October 26, 2009. A Notice of Abandonment was mailed on May 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 an executed declaration and $65.00 surcharge, (2) the petition fee of $810.00; (3) a proper statement of unintentional delay, and (4) a terminal disclaimer accompanied by the required $70.00 fee.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to the Office of Patent Application Processing for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-31-11

TO SPE OF : ART UNIT 2912

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/341821 Patent No.: D626398

CofC mailroom date: 01-19-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

STELLA M. REID
SUPERVISORY PATENT EXAMINER
SPE

2912
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

KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY, SUITE 410
FARMINGTON HILLS MI 48334

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of :
STEVEN D. CHORAZEWITZ ET AL. :
Application No. 29/341,886 : ON PETITION
Filed: August 14, 2009 :
Attorney Docket No. **0302.00003** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings, (2) the petition fee of $810; and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 to be processed into a patent.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110314

DATE : March 14, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D628449

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110314

DATE : March 14, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D624794

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110315

DATE : March 15, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D628450

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110316

DATE : March 15, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D619860

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

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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BCF LLP
1100 RENE'-LE'VESQUE BLVD, WEST
25TH FLOOR
MONTREAL QC H3B-5C9 CA CANADA

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Application of :
Marius ALLAIRE, et al :
Application No. 29/342,112 :
Filed: August 18, 2009 :
Attorney Docket No. 08660-013 :

DECISION
ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 22, 2010.

The petition is **DISMISSED**.

The application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed June 14, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 15, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (4).

With respect to item (4): A terminal disclaimer and the $140 ($70 if small entity) terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted on the application equivalent to the period of abandonment of the application, and must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.

If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(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 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.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BCF LLP
1100 RENE'-LE'VESQUE BLVD. WEST
25TH FLOOR
MONTREAL QC H3B-5C9 CA CANADA

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Marius ALLAIRE, et al	:	
Application No. 29/342,112	:	DECISION ON PETITION
Filed: August 18, 2009	:	
Attorney Docket No. 08660-013	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the required issue fee on or before September 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 14, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $860 (2) the petition fee of $1620; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for further 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
Alexandria, VA 22313-1450
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NOV 07 2011
OFFICE OF PETITIONS

BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

In re Application of :
Carlow et al. :
Application No. 29/342,153 : ON PETITION
Filed: August 19, 2009 :
Attorney Docket No. 092847.000062 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 21, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. 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,[1]
(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.

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.[2]

The instant petition lacks item(s) (4). Since the instant application is a design application, a terminal disclaimer and the $80.00 fee must be submitted for revival, as stated in 37 CFR 1.137(d). A blank form is enclosed for petitioner's convenience.

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/63 – Terminal Disclaimer

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON TX 77208-1389

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DEC 01 2011
OFFICE OF PETITIONS

In re Application of	:	
Carlow et al.	:	
Application No. 29/342,153	:	ON PETITION
Filed: August 19, 2009	:	
Attorney Docket No. 092847.000062	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed November 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied a terminal disclaimer and fee.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAMES RAY WOOD
2728 HIDDEN LAKE DRIVE
GRAPEVINE TX 76051

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Application of :
Keppler, et al. :
Application No. 29/342,158 : ON PETITION
Filed: August 19, 2009 :
Title: Novelty Hat :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 31, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply in response to the Office action mailed April 13, 2010. This Office action set a shortened statutory period for reply of one (1) month. Applicants filed a reply on October 13, 2010. However, the reply was only accompanied by a three month extension of time, not a five month extension of time as would have been required. As such, the application became abandoned on August 14, 2010. The Office mailed a Notice of Abandonment on November 9, 2010.

With the instant petition, petitioner made the proper statement of unintentional delay, paid the petition fee, filed the required Terminal Disclaimer, and submitted the required reply in the form of an Election.

The application is being forwarded to Group Art Unit 2913 for consideration of the Election, filed March 31, 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
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MORRIS MANNING MARTIN LLP
3343 PEACHTREE ROAD, NE
1600 ATLANTA FINANCIAL CENTER
ATLANTA GA 30326

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of :
Cheng-Yu TSAI et al. :
Application No. 29/342,169 : DECISION ON PETITION
Filed: August 19, 2009 :
Attorney Docket No. 19437-72284 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 08, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed April 22, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on July 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620.00, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely reply to the Notice of Allowability of April 22, 2010 is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-4231.

This application is being referred to the Office of Data Management.

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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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: IP DOCKETING
P.O. BOX 7037
ATLANTA GA 30357-0037

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Patent No. D625178 :
Issue Date: October 12, 2010 :
Application No. 29/342,212 : ON PETITION
Filed: August 20, 2009 :
Attorney Docket No. R60999.1091.1 (0119.3) :

This is a decision on the petition filed December 29, 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**.

Pursuant to petitioner's request deposit account no. 09-0528 will be charged the $130.00 processing fee.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3215. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (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.

Charlema Grant
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STINSON MORRISON HECKER, LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2900
KANSAS CITY, MO 64106-2150

MAILED

NOV 30 2011

OFFICE OF PETITIONS

In re Application of :
Katherine A. Smith, et. al. :
Application No. 29/342,248 : DECISION ON PETITION
Filed: August 20, 2009 :
Attorney Docket No. 520402-1177 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2011, to revive the above-identified application.

The application became abandoned for failure to file a timely reply to the Notice of Allowability mailed July 8, 2011. A Notice of Abandonment was mailed on October 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 $990 for payment of the issue; (2) the petition fee of $1,860; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Therefore, the petition is **GRANTED**.

The terminal disclaimer under 37 CFR 1.137(d), filed November 15, 2011, has been accepted and made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Whitaker Law Group
1218 Third Avenue
Suite 1809
Seattle, WA 98101

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application of :
Christopher R. Exarhos :
Application No. 29/342,257 : ON PETITION
Filed: August 20, 2009 :
Attorney Docket No. EX0001 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2010, to revive the above-identified application.

The petition is **dismissed**.

The application became abandoned for failure to file a timely reply to the Restriction/Election Requirement mailed on December 14, 2009. A Notice of Abandonment was mailed on July 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (4).

The Office acknowledges receipt of $810 for the petition to revive fee, an amendment and an election filed on August 18, 2010. However, a Terminal Disclaimer and $70 fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The Terminal Disclaimer must dedicate to the public a terminal part of the term of any patent granted the application equivalent to the period of abandonment of the application, and must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121 or 365(c) to the application for which revival is sought. For petitioner's convenience, a blank Terminal Disclaimer form accompanies this decision.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b), and be accompanied by the required Terminal Disclaimer and $70 fee." 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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Terminal Disclaimer Form No. PTO/SB/63

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Whitaker Law Group
1218 Third Avenue
Suite 1809
Seattle, WA 98101

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Application of :
Christopher R. Exarhos :
Application No. 29/342,257 : ON PETITION
Filed: August 20, 2009 :
Attorney Docket No. EX0001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 22, 2010, to revive the above-identified application.

In response to the decision mailed September 20, 2010, petitioner submits the present renewed petition along with the terminal disclaimer and $70 fee. Therefore, since the requirements of 37 CFR 1.137(b) have been met, the petition is **GRANTED**.

The terminal disclaimer under 37 CFR 1.137(d), filed November 22, 2010, has been accepted and made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application file is being referred to Technology Center Art Unit 2914 for processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/03/11

TO SPE OF : ART UNIT: 2915 Attn: SPEAR ROBERT (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/342300 Patent No.: D634555

CofC mailroom date: 10/03/2011

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: Please check Foreign Application Priority Data Tasneem Siddiqui
Should this data be corrected as requested or not Certificates of Correction Branch

703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XX Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/Robert M. Spear/ 2915
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/03/11

TO SPE OF : ART UNIT: 2913 Attn: VEYNAR CARON D (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/342326 Patent No.: D638352

CofC mailroom date: 10/07/2011

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: Please check the Drawings
Should these drawings be corrected as requested or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Caron D Veynar

CARON D. VEYNAR
SUPERVISORY PATENT EXAMINER

SPE

2913
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/15/11

TO SPE OF : ART UNIT 2913

SUBJECT : Request for Certificate of Correction for Appl. No.: 29342329 Patent No.: D609171

CofC mailroom date: 06/10/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Should drawings 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.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

_____

_____

_____

_____

Caron D Veynar 2913

CARON D. VEYNAR
SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

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

FRANCIS EDWARD MARINO
394 MEREDITH NECK ROAD
MEREDITH NH 03253

MAILED

DEC 01 2010

OFFICE OF PETITIONS

In re Application of :
Robertson, et al. :
Application No. 29/342,539 : DECISION
Filed: 26 August, 2009 :
Attorney Docket No. TR-004B :

This is a decision on the petition filed on 19 July, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance (drawings requirement), mailed on 24 March, 2010, with reply due under a non-extendable deadline on or before 24 June, 2010.

The application went abandoned by operation of law after midnight 24 June, 2010.

The Office mailed the Notice of Abandonment on 12 July, 2010.

On 26 July, 2010, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with a terminal disclaimer and fee and a reply in the form of corrected drawings due and made the statement of unintentional delay. Further, Petitioner expressly

requested that the Office waive/refund the petition fee. Petitioner's contention is that, since he failed to read the Notice of Allowance/Allowability with sufficient care, he did not recognize that replacement drawings were required "at action item 7 of the Notice of Allowance." What Petitioner failed to state was that the requirement for replacement drawings was set forth in the Check List of elements on the second form page of the Notice of Allowance/Allowability.

Clearly the drawings requirement was not buried some place deep in the narrative of the Notice of Allowance/Allowability as Petitioner would have one believe, but was clearly set forth in the standard location for itemization of requirements to be satisfied concurrent with the payment of the Issue Fee. Even if the requirement had been within the latter details of the Notice, it was Petitioner's responsibility to review properly the Notice of Allowance/Allowability mailed by the Examiner—a failing Petitioner acknowledges in his statement of his "reliance on the similarity of language and subject matter to other changes ... ." Thus, Petitioner's contention is unconvincing.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LADAS & PARRY LLP
1040 Avenue of the Americas
NEW YORK NY 10018-3738

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Patent No. D626370 :
Issue Date: November 2, 2010 :
Application No. 29/342,551 : DECISION ON PETITION
Filed: August 27, 2009 :
Attorney Docket No. UD 052030-1 :

This is a decision on the Petition For Correction Of Assignee's Name, filed January 25, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to correct the assignee's name on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct the assignee's name identified thereon from:

"**Sumsung** Electronics Co., Ltd."

to:

--**Samsung** Electronics Co., Ltd--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. D626370.

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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INTELLECTUAL PROPERTY GROUP
FREDRIKSON & BYRON, P.A.
200 SOUTH SIXTH STREET, SUITE 4000
MINNEAPOLIS MN 55402

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Bott :
Application No. 29/342,670 : DECISION
Filed/Deposited: 28 August, 2009 :
Attorney Docket No. 49287.64 :

This is a decision on the petition filed on 28 June,2010 to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (It does not appear that a terminal disclaimer and fee are required here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 22 March, 2010, with reply due under a non-extendable deadline on or before 22 June, 2010.

The application went abandoned by operation of law after midnight 22 June, 2010.

It does not appear that the Office mailed a Notice of Abandonment before a petition was filed.

On 28 June, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of fees due, with a terminal disclaimer and fee (the application previously was assigned to the assignee on behalf of which the terminal disclaimer was executed, and made the statement of unintentional delay.

The Office mailed a Notice of Abandonment on 1 July, 2010.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Application No. 29/342,670

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 Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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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P.O. Box 1450
Alexandria, VA 22313-1450
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KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of
Martin W. Macey
Application No. 29/342,683
Filed: August 28, 2009
Attorney Docket No. 16013.6

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance/Notice of Allowability mailed September 29, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent.

/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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FEB 09 2012

OFFICE OF PETITIONS

GLOBAL IP SERVICES
7285 W. EAGLE COURT
WINTON, CA 95388

In re Application of :
Huajun Yao :
Application No. 29/342,711 : ON PETITION
Filed: August 31, 2009 :
Attorney Docket No.: SHI-112D :

This is a decision on the petition, filed December 22, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

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 submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed June 13, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 14, 2011. A Notice of Abandonment was mailed on September 28, 2011. On December 22, 2011, the present petition was filed.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) (1) the required reply,[1] 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 petition lacks items (4) above.

[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.

Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application and the terminal disclaimer must also apply to any patent granted on a continuing design application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. To be effective, the terminal disclaimer must include the fee of $160 ($80 if small entity) pursuant to 37 CFR 1.20(d) and be signed in accordance with 37 CFR 1.33(b). If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[2]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] 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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GLOBAL IP SERVICES
7285 W. EAGLE COURT
WINTON, CA 95388

MAILED
MAR 14 2012
OFFICE OF PETITIONS

In re Application of
Huajun Yao
Application No. 29/342,711
Filed: August 31, 2009
Attorney Docket No.: SHI-112D

ON PETITION

This is a decision on the renewed petition, filed February 23, 2012, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed June 13, 2011. A Notice of Abandonment was mailed on September 28, 2011. On December 22, 2011, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed February 9, 2012. In response, on February 23, 2012, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $930; (3) an adequate statement of unintentional delay; and (4) a terminal disclaimer and the $80 fee required by 37 CFR 1.137(d).

The terminal disclaimer filed February 23, 2012 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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

Patent No. : **D621449**
Ser. No. **29/342740**
Inventor(s) : **WONG, VERONICA**
Issued : **08/10/2010**
Title : **SQUIRTING TOY WITH ANIMAL HEAD**
Docket No. : **69281/116**

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

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

OL

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MAILED

JUL 25 2011

OFFICE OF PETITIONS

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

In re Patent No. D621449

Issue Date: August 10, 2010

Application No. 29/342,740

Filed: August 31, 2009

Attorney Docket No. 69281/116

ON PETITION

This is a decision on the petition filed March 22, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of a Certificate of Correction.

The request is **dismissed**.

Petitioner requests issuance of a certificate of correction in the name of "Easebon Services, Ltd." 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent.*** Patent and Trademark Office assignment records disclose that the corrective assignment to Easebon Services, Ltd. was recorded on January 28, 2011, after the date of issuance of this patent. Accordingly, since the corrective assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Any further requests may directed to the following:

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

[1] See *Official Gazette* of June 22, 2004.

Questions regarding this decision may be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : **D621450**
Ser. No. **29/342742**
Inventor(s) : **WONG, VERONICA**
Issued : **08/10/2010**
Title : **SQUIRTING TOY WITH ANIMAL HEAD**
Docket No. : **69281/117**

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

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

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Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JUN 22 2011
OFFICE OF PETITIONS

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

In re Patent No. D621450 :
Issue Date: August 10, 2010 :
Application No. 29/342,742 : DECISION ON PETITION
Filed: August 31, 2009 :
Attorney Docket No. 69281/117 :

This is a decision on the Request For Certificate Of Correction For Applicant's Mistake Pursuant To 35 U.S.C. §255 And 37 CFR §1.323, filed February 14, 2011, which is being treated as a Petition Under 37 CFR §3.81(b) to add –Easebon Services, Ltd., Kwun Tong (HK)-- as the correct assignee name to the Title Page of the Patent via a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

Petitioner requests that the present Petition was submitted to add the correct –Easebon Services, Ltd., Kwun Tong (HK)-- on the previously submitted PTOL-85B and such error was a typographical error.

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.

U.S. Patent and Trademark Office assignment records disclose that a corrective assignment *Easebon Services, Ltd.*, was submitted for recordation on January 28, 2011. Therefore, the correct recorded assignment was **after the date of issuance of this patent.** Accordingly, since the corrective assignment was not submitted for recordation until after issuance of this patent, issuance of a certification of correction would not be proper.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 0527-11

TO SPE OF : ART UNIT 2913

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/342748 Patent No.: D626997

CofC mailroom date: 12-30-10

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

Note: _____

Certificates of Correction Branch

703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE Caron D Veynar **Art Unit** 2913

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/11/11

TO SPE OF : ART UNIT: 2911

SUBJECT : Request for Certificate of Correction for Appl. No.: D645,194 Patent No. 29/342,765

CofC mailroom date 9/30/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The COC drawings are distorted. The light is shorter and thicker than the original drawings. See Fig. 16, and compare with original Fig. 19; the mounting surface is now oval, not circular.

_____ SPE — 2911 Art Unit

CATHRON C. BROOKS
SUPERVISORY PATENT EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/11/11

TO SPE OF : ART UNIT: 2911

SUBJECT : Request for Certificate of Correction for Appl. No.: D645,194 Patent No. 29/342,765

CofC mailroom date 9/30/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☑ **Denied**	State the reasons for denial below.

Comments: The COC drawings are disturbed. The light is shorter and thicker than the original drawings. See Fig. 16, and compare with original Fig. 19; The mounting surface is now oval, not circular.

_____ SPE 2911 Art Unit

CATHRON C. BROOKS
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GARCIA-ZAMOR INTELLECTUAL PROPERTY LAW
ATTN: RUY GARCIA-ZAMOR
12960 LINDEN CHURCH ROAD
CLARKSVILLE MD 21029

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Sued, et al. :
Application No. 29/342,769 : DECISION ON PETITION
Filed: September 1, 2009 :
Attorney Docket No. EMI-PT029.1 :
For: PENCIL SHARPENER

This is a decision on the petition under 37 CFR 1.137(a), filed February 2, 2011, 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. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

This application became abandoned for failure to timely submit the issue fee and corrected drawings in response to the Notice of Allowance and Fee(s) Due and the Notice of Allowability for a Design Application, respectively, both being mailed October 25, 2010. The Notices set a non-extendable three month period for reply from the mail date of the Notices. The application became abandoned on January 26, 2011. A Notice of Abandonment was mailed on February 4, 2011.

The merits of the petition will not be addressed at this time because it is unclear which ***type*** of Rule 137 petition to revive that petitioners wish to file. While petitioners utilized the Rule 137(a) form, petitioners paid the (higher amount) Rule 137(b) petition fee of $810.00. Petitioners are informed that if the Office undertakes a Rule 137(a) analysis and petitioners are unsuccessful, then petitioners will have to pay an additional $270.00 if they wish to receive consideration under Rule 137(b). Therefore, in the interests of economy, petitioners should clarify which type of petition they wish to file.

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
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

GARCIA-ZAMOR INTELLECTUAL PROPERTY LAW
ATTN: RUY GARCIA-ZAMOR
12960 LINDEN CHURCH ROAD
CLARKSVILLE MD 21029

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Application of :
Sued, et al. :
Application No. 29/342,769 : DECISION ON PETITION
Filed: September 1, 2009 :
Attorney Docket No. EMI-PT029.1 :
For: PENCIL SHARPENER

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 13, 2011, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely submit the issue fee and corrected drawings in response to the Notice of Allowance and Fee(s) Due and the Notice of Allowability for a Design Application, respectively, both being mailed October 25, 2010. The Notices set a non-extendable three month period for reply from the mail date of the Notices. The application became abandoned on January 26, 2011. A Notice of Abandonment was mailed on February 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of a completed Part B – Fee(s) Transmittal, the issue fee of $430.00, and corrected drawings [filed on February 2, 2011] (2) the petition fee of $810.00; (3) a proper statement of unintentional delay, and (4) a terminal disclaimer accompanied by the required $70.00 fee.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to the Office of Data Management for consideration of the drawings filed on February 2, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of
Brad Beckerman
Application No. 29/342,804
Filed: September 1, 2009
Attorney Docket No. D/5564-2

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(3) (CPA)

This is a decision on the petition under 37 CFR 1.313(c)(3), filed December 3, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on September 28, 2010 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed December 3, 2010.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2912 for processing of the CPA and consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : **D621452**
Ser. No. **29/342890**
Inventor(s) : **WONG, VERONICA**
Issued : **08/10/2010**
Title : **SQUIRTING TOY WITH HANDLE**
Docket No. : **69281/115**

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

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

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Alexandria, VA 22313-1450
www.uspto.gov

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JUL 25 2011

OFFICE OF PETITIONS

AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK NY 10016

In re Patent No. D621452

Issue Date: August 10, 2010

Application No. 29/342,890

Filed: September 2, 2009

Attorney Docket No. 69281/115

ON PETITION

This is a decision on the petition filed March 22, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of a Certificate of Correction.

The request is **dismissed**.

Petitioner requests issuance of a certificate of correction in the name of "Easebon Services, Ltd." 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that the corrective assignment to Easebon Services, Ltd. was recorded on January 28, 2011, after the date of issuance of this patent. Accordingly, since the corrective assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Any further requests may directed to the following:

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

[1] See *Official Gazette* of June 22, 2004.

Questions 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : **D624864**
Ser. No. **29/342935**
Inventor(s) : **MAKINO, SATOSHI**
Issued : **10/05/2010**
Title : **FUEL TANK FOR MULTIPURPOSE ENGINE**
Docket No. : **D/4212-99 (V13038)**

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

OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Patent No. D624,864 :
Issue Date: October 5, 2010 :
Application No. 29/342,935 : ON PETITION
Filed: September 3, 2009 :
Attorney Docket No. **D/4212-99 (V13038)** :

This is a decision on the petition filed October 19, 2011, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests to correct the assignee's name by way of a certificate of correction in the name of "Yamaha Motor Power Products Kabushiki Kaisha".

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that a corrective assignment to correct the assignee name from "Yamaha Motor Products Kabushiki Kaisha" to "Yamaha Motor Power Products Kabushiki Kaisha" was recorded September 19, 2011, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED

JAN 12 2012

OFFICE OF PETITIONS

In re Patent No. D624,864 :
Issue Date: October 5, 2010 :
Application No. 29/342,935 : ON PETITION
Filed: September 3, 2009 :
Attorney Docket No. **D/4212-99 (V13038)** :

This is a decision on the petition filed December 27, 2011, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests to correct the assignee's name by way of a certificate of correction in the name of "Yamaha Motor Power Products Kabushiki Kaisha".

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that a corrective assignment to correct the assignee name from "Yamaha Motor Products Kabushiki Kaisha" to "Yamaha Motor Power Products Kabushiki Kaisha" was recorded September 19, 2011, **after the date of issuance of this patent**. Accordingly, since the corrective assignment to correct the assignee's name was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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.
29/342,952	09/03/2009	Christoph LAMBERTS	FP-US095141	6591

7590 03/24/2011

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

EXAMINER	
DOAN, ANHDAO	
ART UNIT	PAPER NUMBER
2914	
MAIL DATE	DELIVERY MODE
03/24/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

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March 24, 2011

GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON DC 20036-2680

In re Application of	:	
Lamberts, Christoph	:	**DECISION ON PETITION**
Application No. 29/342,952	:	
Filed: 09/03/2009	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. FP-US095141	:	***DRAWINGS***

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) September 03, 2009.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

MAR 28 2011

OFFICE OF PETITIONS

LUTRON ELECTRONICS CO., INC.
MARK E. ROSE
7200 SUTER ROAD
COOPERSBURG PA 18036-1299

In re Application of :
Lauren B. MARGOLIN et al. :
Application No. 29/342,975 : DECISION ON PETITION
Filed: September 03, 2009 :
Attorney Docket No. 09-21893-D2 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit corrected formal drawings on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (4).

As to item 4, the Terminal Disclaimer is unacceptable and will not be entered because it fails to list the complete name of the Assignee. Petitioner listed Lutron Electronics Co., Inc. as the assignee and the office record indicates the Assignee to be Lutron Electronics Co., Ltd.. Therefore, the petition cannot be granted at this time.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LUTRON ELECTRONICS CO., INC.
MARK E. ROSE
7200 SUTER ROAD
COOPERSBURG PA 18036-1299

MAILED
JUN 03 2011
OFFICE OF PETITIONS

In re Application of :
Lauren B. Margolin et al. :
Application No. 29/342,975 : DECISION ON PETITION
Filed: September 03, 2009 :
Attorney Docket No. **09-21893-D2** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected formal drawings , (2) the petition fee of $1620; and (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely file corrected drawings as required by the Notice of April 16, 2010 is accepted as having been unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 further processing in accordance with this decision on petition.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 04 2011

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Application of :
Lane Hobenshield, et al. :
Application No. 29/342,978 : ON PETITION
Filed: September 3, 2009 :
Attorney Docket No. 017330-0165 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the issue fee on or before January 31, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 29, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 1, 2011. The Notice of Abandonment was mailed January 20, 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 Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (4).

All design application petitions must be accompanied with a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) as required by 37 CFR 1.137(d). A copy of the terminal disclaimer form PTO/SB/63 is enclosed for your convenience.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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 Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

Enclosed: PTO/SB/63 (Terminal Disclaimer)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of :
Lane Hobenshield, et al. :
Application No. 29/342,978 : DECISION ON PETITION
Filed: September 3, 2009 :
Attorney Docket No. 017330-0165 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 27, 2011, to revive the above-identified design application.

The petition is **GRANTED.**

The application became abandoned for failure to timely pay the issue fee on or before October 29, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 31, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 30, 2010. A Notice of Abandonment was mailed on February 11, 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 $860 issue fee, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Office of Data Management for further processing in accordance with this decision on petition.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Lane Colin Hobenshield et al. :
Application No. 29/342,980 :
Filed: September 3, 2009 :
Attorney Docket No. 017330-0174 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 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.

This application became abandoned for failure to timely pay the issue fee on or before February 1, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 1, 2010. Accordingly, the date of abandonment of this application is February 2, 2011. A Notice of Abandonment was mailed on February 2, 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 (4).

As to item (4) since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365 (c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 is required. If the terminal disclaimer is signed by the assignee, an assignee must comply with the requirements of 37 CFR 3.73(b).

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 petition under 37 CFR 1.182, requesting expedited handling of the petition to revive filed on February 23, 2011 has been **GRANTED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of :
Lane Colin Hobenshield et al. :
Application No. 29/342,980 : DECISION ON PETITION
Filed: September 3, 2009 :
Attorney Docket No. 017330-0174 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before February 1, 2011, as required by the Notice of Allowance and Fee(s) Due mailed November 1, 2010. Accordingly, the date of abandonment of this application is February 2, 2011. A Notice of Abandonment was mailed on February 14, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee of $860, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay and, (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the issue fee is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 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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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

MAILED
JUN 13 2011
OFFICE OF PETITIONS

In re Application of :
Lane Colin Hobenshield et al : DECISION GRANTING PETITION
Application No. 29/342,980 : UNDER 37 CFR 1.313(c)(3) (CPA)
Filed: September 3, 2009 :
Attorney Docket No. 017330-0174 :

This is a decision on the petition under 37 CFR 1.313(c)(3), filed June 10, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on February 23, 2011 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed June 10, 2011.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2912 for processing of the CPA and consideration of the concurrently filed IDS.

/Karen Creasy/
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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Paper No.

LEWIS, RICE & FINGERSH, LC
ATTN: BOX IP DEPT.
600 Washington Ave.
Suite 2500
ST LOUIS MO 63101

MAILED

JAN 26 2011

OFFICE OF PETITIONS

In re Application of :
Jeffrey Macler : DECISION ON
Application No. 29/343,017 : PETITION
Filed: September 4, 2009 :
Atty Docket No. 119/1816D :

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed September 20, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings[1] within three months of the mailing date, May 24, 2010, of the Notice of Allowability. A courtesy Notice of Abandonment was mailed on September 10, 2010.

The petition includes the required reply in the form of corrected drawings, the required statement of unintentional delay, payment of the petition fee set forth in 37 CFR § 1.17(m), and the required terminal disclaimer (and disclaimer fee). Petitioner has met all requirements of 37 CFR 1.137(b) for revival of this application.

The terminal disclaimer has been accepted and is being made of record.

The Office of Data Management (formerly known as the Office of Patent Publication) has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

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[1] There was no outstanding requirement for payment of a publication fee. The design issue fee was timely paid on August 24, 2010.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOOKER & HABIB, P.C.
100 CHESTNUT STREET
SUITE 304
HARRISBURG, PA 17101

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of :
Axel Heppener :
Application No. 29/343,020 : ON PETITION
Filed: September 4, 2009 :
Attorney Docket No. 7-4239 :

This is a decision on the petition filed October 18, 2010 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed July 1, 2010, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 2, 2010.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the formal drawings; (2) the petition fee; (3) the required statement of unintentional delay and (4) Terminal Disclaimer have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY CENTER, LLC
7101 College Boulevard
SUITE 1520
OVERLAND PARK KS 66210

MAILED

JAN 13 2011

OFFICE OF PETITIONS

In re Application of
David P. Kowal
Application No. 29/343,110
Filed: September 8, 2009
Attorney Docket No.: 4147

ON PETITION

This is a decision on the petition filed December 22, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Notice of Allowability mailed July 19, 2010 required Corrected Drawings and set a period of three months for reply. No response to the requirements set out in the Notice of Allowability mailed July 19, 2010 was timely filed thus, the application became

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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.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

abandoned October 20, 2010. Accordingly, a Notice of Abandonment was mailed November 1, 2010.

The petition does not satisfy requirement (4) above.

Petitioner must submit a Terminal Disclaimer with any renewed petition since this is a design application. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

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
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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INTELLECTUAL PROPERTY CENTER, LLC
7101 COLLEGE BOULEVARD
SUITE 1520
OVERLAND PARK KS 66210

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of
David P. Kowal
Application No. 29/343,110
Filed: September 8, 2009
Attorney Docket No.: 4147

ON PETITION

This is a decision on the renewed petition filed March 2, 2011 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

The Notice of Allowability mailed July 19, 2010 required Corrected Drawings and set a period of three months for reply. No response to the requirements set out in the Notice of Allowability mailed July 19, 2010 was timely filed thus, the application became abandoned October 20, 2010. Accordingly, a Notice of Abandonment was mailed November 1, 2010. A petition to revive was filed December 22, 2010 but was dismissed in a decision mailed January 13, 2011 because the petition was not accompanied by a terminal disclaimer.

All other requirements of 37 CFR 1.137(b), including the filing of a terminal disclaimer, and fee, which has been charged to the credit card provided, having now been met, this matter is being referred to the Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Patent No. D624061 :
Issued: September 21, 2010 :
Application No. 29/343,133 : ON PETITION
Filed: September 8, 2009 :
Attorney Docket No. 3156.318US01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 11, 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Benison Industrial Co. Ltd.
GOLDFIELD INDUSTRIAL CENTER
ROOM 813
1 SHUI WO ROAD, FOTAN
N.T. HK HONG KONG

JUN 08 2011

In re Application of
KAN, MAN KIT ELVIN :
Application No. 29/343,254 : **DECISION ON PETITION**
Filed: September 10, 2009 :
Attorney Docket No.: 29366 :

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on March 31, 2011.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay issue fee as required in the NOTICE OF ALLOWANCE AND FEE(S) DUE, mailed October 19, 2010 which set a three (3) month statutory period for reply. Accordingly, a Notice of Abandonment was mailed February 1, 2011.

Petitioner has demonstrated that the Part B – Fee(s) Transmittal, Transmittal Of Payment Of Issue Fee, Transmittal Of Formal Drawings with seven (7) sheets of formal drawings, and a credit card in the amount of $430 were timely fax transmission on December 24, 2010, and is in compliance with 37 CFR 1.8(b) in that (1) the United States Patent and Trademark Office was promptly informed of the previous timely mailing, (2) a copy of the previously mailed correspondence with certificate of mailing thereon has been submitted, and (3) included a statement which attests to the previous timely mailing.

In view of the above, the holding of abandonment is hereby withdrawn.

Telephone inquires relating to this matter may be directed to the undersigned at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : D625932
Application No.: 29/343287
Inventor(s) : Donald K. Jessie, Jr.
Issued : 10/26/2010
Title : SEAT PORTION FOR A TRIKE, BIKE OR THE LIKE
Docket No. : HFY-174D2

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **The processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. A copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 12/29/2010

Address: Steven W. Benintendi
WOOD, HERRON & EVANS, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

ts/md

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Patent No. D647,542 :
Issue Date: October 25, 2011 :
Application No. 29/343,365 : ON PETITION
Filed: September 11, 2009 :
Attorney Docket No. A399.12-0008 :

This is a decision on the petition November 4, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The petition fee for a petition under 37 CFR 3.81(b) is $130. Since petitioner submitted $400, by credit card, petitioner may request the total of $270 refund 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 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JAN 06 2012
OFFICE OF PETITIONS

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

In re Patent No. D,647,542 :
Issue Date: October 25, 2011 :
Application No. 29/343,365 : DECISION ON REQUEST FOR REFUND
Filed: September 11, 2009 :
Attorney Docket No. A399.12-0008 :

This is a decision on the Request For Refund filed December 28, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "This is a request for refund of a fee made for the filing of a Petition Under 37 C.F.R. § 1.813 [sic] 1.183 that was filed on November 4, 2011. With the filing of that petition, Applicant erroneously paid the petition fee under 37 CFR § 1.17(f) in the amount of $400.00. Applicant should have paid the petition fee under 37 CFR § 1.17(i) in the amount of $130.00."

In view of the above, a total of $270.00 is being credited to applicant's credit card account as it is the method in which the fee was paid.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES 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 24 2011

OFFICE OF PETITIONS

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

In re Patent No. D616,011	:	
Issued: May 18, 2010	:	
Application No. 29/343,378	:	NOTICE
Filed: September 11, 2009	:	
Attorney Docket No.: 3156.270US02	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Status as a small entity has been changed.

/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

HUSCH BLACKWELL, LLP
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Application of :
Michael A. Amann :
Application No. 29/343,489 : DECISION ON PETITION
Filed: September 14, 2009 :
Attorney Docket No. 718149.19 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before April 3, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed January 3, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 4, 2011. A Notice of Abandonment was mailed on May 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $430 issue fee, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 571-272-4200.

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110316

DATE : March 15, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D616714

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110315

DATE : March 14, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D616267

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110314

DATE : March 14, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D616269

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110314

DATE : March 14, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D616715

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110315

DATE : March 14, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D616270

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

UNITED STATES 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.

VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of :
Choi et al. :
Application No. 29/343,562 : LETTER REGARDING
Filed: September 15, 2009 : FEE DEFICIENCY PAYMENT
Atty Docket No. 01035.00.00.0271 :

This is in response to the NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS filed April 6, 2010, notifying the Office of loss of entitlement to small entity status.

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.

This letter includes an itemization of the fee deficiencies and payment as required by 37 CFR 1.28(c)(2)(ii).

Your notification of a loss of entitlement to small entity status is made of record and your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Patent No. D613,277 :
Issue Date: 04/06/2010 :
Application Number: 29/343,571 : NOTICE
Filing or 371(c) Date: 09/15/2009 :
Attorney Docket Number: 3156.223US02 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on February 17, 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

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

DEAN A. CRAINE
9-LAKE BELLEVUE DRIVE
SUITE 208
BELLEVUE WA 98005

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of	:	
Kevin MCCARTHY	:	
Application No. 29/343,592	:	DECISION ON PETITION
Filed: September 16, 2009	:	
Attorney Docket No. MCCK 108D	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the required issue fee on or before May 3, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 3, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $430 (2) the petition fee of $810; (3) the required statement of unintentional delay; and (4) a Terminal Disclaimer.

The Terminal Disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for further 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
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of : Sczepanowski et al. :
Application No. 29/343,623 : DECISION ON PETITION
Filed: September 16, 2009 : PURSUANT TO
Attorney Docket No.: ZD05958 : 37 C.F.R. § 1.137(B)
Title: RAZOR STORAGE DEVICE :

This is a decision on the petition filed May 12, 2010, pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) 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 and Issue Fee Due, mailed January 27, 2010, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on April 28, 2010. A Notice of Abandonment was mailed on May 12, 2010, on even date with 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);
(2) 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

1 See MPEP § 710.02(e)(III).

paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(3) Any terminal disclaimer (and fee as set forth in 37 C.F.R § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition and issue fees, the proper statement of unintentional delay, and both a terminal disclaimer and the associated fee.

As such, each of the four requirements of Rule 1.137(b) has been met.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

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 Office of Patent Publication 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 Office of Patent Publication 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 the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/30/2010

TO SPE OF : ART UNIT 2911 Cathron Brooks (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/343623 Patent No.: D625130

CofC mailroom date: 12/6/2010

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

703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

Caron D Veynar

CARON D. VEYNAR
SUPERVISORY PATENT EXAMINER
SPE

2913
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BINGHAM MCCUTCHEN LLP
2020 K Street, N.W.
Intellectual Property Department
WASHINGTON DC 20006

MAILED
JAN 05 2012
OFFICE OF PETITIONS

In re Application of	:	
Caffey et al.	:	
Application No. 29/343,629	:	DECISION ON PETITION
Filed: September 16, 2009	:	PURSUANT TO
Patent No. D629,503	:	37 C.F.R. § 1.28(c)
Issued: December 21, 2010	:	
Attorney Docket No.: RPN-016D	:	
Title: IMPLANTABLE DRUG-DELIVERY PUMP	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on December 5, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee

erroneously paid); and

(d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Petitioner has identified the particular types of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, and the total deficiency payment owed.

Petitioner has not identified the current fee amounts for a non-small entity, the small entity fees that were actually paid, or the deficiency owed amounts.

The requirement that Petitioner must provide the Office with the current fee amounts for a non-small entity, the small entity fees that were actually paid, and the deficiency owed amounts is waived, *sua sponte*.

The deficiency payment in the amount of $725.00 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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 regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEONG C. LEI
PMB # 1008
1839 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

MAILED
NOV 03 2011
OFFICE OF PETITIONS

In re Application of :
Jen-Kai Liu :
Application No. 29/343,725 : DECISION ON PETITION
Filed: September 17, 2009 :
Attorney Docket No. **CFPA7377-16847** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 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 18, 2010, as required by the Notice of Allowance and Fee(s) Due, 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 payment of the issue fee of $495, (2) the petition fee of $930; and (3) a proper statement of unintentional delay and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 to be processed into a patent.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110222

DATE : February 22, 2011

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction on Patent No.: D616333

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 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: /Hyder S. Philip/ **Art Unit** 2917

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110601

DATE : June 1, 2011

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction on Patent No.: D616342

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 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: /Hyder S. Philip/ **Art Unit** 2917

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JAN 21 2011

OFFICE OF PETITIONS

In re Application of :
Albritton et al. :
Application No. 29/343,919 :
Filed: September 21, 2009 :
Attorney Docket No. 027630-002200US :

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 December 16, 2010.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on December 16, 2010 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> (1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;
>
> (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and
>
> (3) notified the client of any replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with items (1) and (2) of the above certifications.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110315

DATE : March 14, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D619860

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

UNITED STATES 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
300 S. RIVERSIDE PLAZA, 16TH FLOOR
CHICAGO IL 60606-6613

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of :
Brauer et al. :
Application No. 29/343,975 : DECISION ON PETITION
Filed: September 22, 2009 :
Attorney Docket No. 09DC037 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue fee on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010. A Notice of Abandonment was mailed August 2, 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(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)(II)(C) and (D). The instant petition lacks item (1) of the above items.

With regards to item (1), petitioner has failed to pay the issue fee of $860.00. Petitioner has instead filed a Continued Prosecution Application (CPA) Request in response to the Notice of Allowance.

35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of a CPA request without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to pay the issue fee or any portion thereof.

Petitioner is advised that, once submitted, the issue fee 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.

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
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NIXON PEABODY LLP
300 S. RIVERSIDE PLAZA, 16TH FLOOR
CHICAGO IL 60606-6613

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Brauer et al.	:	
Application No. 29/343,975	:	DECISION ON PETITION
Filed: September 22, 2009	:	
Attorney Docket No. 09DC037	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 16, 2010, as required by the Notice of Allowance and Fee(s) Due mailed April 16, 2010. Accordingly, the date of abandonment of this application is July 17, 2010. A Notice of Abandonment was mailed August 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $860.00, (2) the petition fee of $810.00 (previously submitted August 3, 2010); (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and fee of $70.00 (previously submitted August 3, 2010).

The terminal disclaimer is accepted and has been made of record.

Further, petitioner's deposit account has been charged a second $860.00 issue fee as authorized on October 21, 2010. This second fee is necessary since petitioner requested a Continued Prosecution Application (CPA) on August 3, 2010. This CPA request created a new application. As such, to revive the previous application payment of the issue fee in that previous application was required. The instant application also required payment of the issue fee. *See* MPEP 1306 which states in relevant part -

Had applicant filed a Continued Prosecution Application (CPA) instead of an RCE, the Notice of Allowance would not reflect any issue fee paid before the CPA was filed because the issue fee was paid in a prior application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MORGAN LEWIS & BOCKIUS LLP (WA)
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In re Application of :
Wang : DECISION ON PETITION
Application No. 29/343,988 :
Filed: September 22, 2009 :
Atty. Dkt. No.: 100758-5022 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 9, 2011.

The application was held abandoned for failure to timely submit a proper reply to the Notice mailed October 13, 2010. Notice of Abandonment was mailed May 25, 2011.

Petitioner asserts that a reply was timely filed October 26, 2010.

The reply filed October 26, 2010 has been located in the official application file.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Group Art Unit 2916 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jefferson IP Law, LLP
1130 Connecticut Ave., NW
Suite 420
Washington DC 20036

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Jong-Woo Lee	:	
Application No. 29/343,991	:	DECISION ON PETITION
Filed: September 22, 2009	:	
Attorney Docket No. 0103-0017	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on September 1, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on December 2, 2010. A Notice of Abandonment was mailed on December 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the corrected drawings are accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 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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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Application of	:	
Baacke et al.	:	
Application No. 29/344,133	:	DECISION ON PETITION
Filed: September 24, 2009	:	
Attorney Docket No. 2006M02640US01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit Corrected Drawings on or before May 23, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed February 23, 2012. Accordingly, the date of abandonment of this application is May 24, 2011. A Notice of Abandonment was mailed June 10, 2011.

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.

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)(II)(C) and (D). The instant petition lacks item (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer and fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. A terminal disclaimer cannot be signed by an attorney in representative capacity.

Therefore, since James E. Howard does not have power of attorney in the above-identified application the terminal disclaimer submitted July 26, 2011 is improper.

Further, petitioner has submitted a terminal disclaimer naming BSH Bosch und Siemens Hausgeraete as assignee of 100 percent interest. A review of USPTO records reveals no record of an assignment to BSH Bosch und Siemens Hausgeraete in the above-identified application. Therefore, the terminal disclaimer submitted July 26, 2011 is improper.

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

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
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100 BOSCH BOULEVARD
NEW BERN NC 28562

MAILED

SEP 20 2011

OFFICE OF PETITIONS

In re Application of :
Baacke et al. :
Application No. 29/344,133 : DECISION ON PETITION
Filed: September 24, 2009 :
Attorney Docket No. 2006M02640US01 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 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(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely submit Corrected Drawings on or before May 23, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed February 23, 2012. Accordingly, the date of abandonment of this application is May 24, 2011. A Notice of Abandonment was mailed June 10, 2011.

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)(II)(C) and (D). The instant petition lacks item (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer and fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. A terminal disclaimer cannot be signed by an attorney in representative capacity.

Petitioner has once again submitted a terminal disclaimer naming BSH Bosch und Siemens Hausgeraete as assignee of 100 percent interest. A review of USPTO records reveals BSH BOSCH UND SIEMENS HAUSGERAETE GMBH as the current assignee in the above-identified application. Therefore, the terminal disclaimer submitted September 14, 2011 is improper.

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

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
P.O. Box 1450
Alexandria, VA 22313-1450
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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Application of :
Baacke et al. :
Application No. 29/344,133 : DECISION ON PETITION
Filed: September 24, 2009 :
Attorney Docket No. 2006M02640US01 :

This is a decision on the second renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before May 23, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed February 23, 2011. Accordingly, the date of abandonment of this application is May 24, 2011. A 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) Corrected Drawings (previously submitted July 26, 2011) , (2) the petition fee of $1,620.00 (previously paid July 26,2011), (3) a proper statement of unintentional delay and (4) a Terminal Disclaimer and required $140.00 fee (previously paid July 26, 2011).

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the corrected drawings submitted July 26, 2011.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-28-10

TO SPE OF : ART UNIT 2911

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/344137 Patent No.: D619202

CofC mailroom date: 11-30-10

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

A. Green

Angela Green
Certificates of Correction Branch
(703) 756-1541

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

Cathron C. Brooks 2911

CATHRON C. BROOKS
SUPERVISORY PATENT EXAMINER

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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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of :
Stuart Weitzman :
Application No. 29/344,198 : NOTICE
Filed: September 25, 2009 :
Attorney Docket No. 5854/002 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 01, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Ballard Spahr LLP
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ATLANTA GA 30309-3915

MAILED

NOV 04 2011

OFFICE OF PETITIONS

In re Application of :
Hans-Henning Brabnder :
Patent Number: D644198 :
Issue Date: 08/30/2011 :
Application No. 29/344232 :
Filing or 371(c) Date: 09/25/2009 :
Title of Invention: :
TELECOMMUNICATION HANDSET :

ON PETITION

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

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LAW OFFICE OF HOUDA EL-JARRAH
PO BOX 27087
HOUSTON, TX 77227

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NOV 04 2011

OFFICE OF PETITIONS

In re Application of :
Ahmed Deyaf :
Application No. 29/344,322 : DECISION ON PETITION
Filed: September 28, 2009 :
Attorney Docket No. 090707(STL Edlpse) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 17, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 15, 2009 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $930, and (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

In view of the above, the petition is **GRANTED**.

The terminal disclaimer is accepted and made 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 2913 for appropriate action by the Examiner in the normal course of business on the reply received October 17, 2011.

April M. Wise
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

COHEN & GRIGSBY, P.C.
625 LIBERTY AVENUE
PITTSBURGH PA 15222-3152

In re Patent No. D618997
Issued: July 6, 2010
Application No.: 29/344,685,
Filed: October 2, 2009
Attorney Docket No: **09-217 DES**

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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YOUNG BASILE
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

MAILED

NOV 03 2010

OFFICE OF PETITIONS

In re Application of :
James Blain :
Application No. 29/344,705 : ON PETITION
Filed: October 2, 2009 :
Attorney Docket No. JBL-102-A-DESIGN :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2010, to revive the above-identified design 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 submit the issue fee and corrected drawings on or before October 12, 2010, as required by the Notice of Allowability for A Design Application including the Notice of Allowance and Fee(s) Due mailed July 9, 2010, which set a period for reply of three (3) months. Accordingly, the application became abandoned on October 13, 2010.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(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 petition lacks items (1) and (4) above.

In regards to item (1), the required reply. While the Office recognizes that the petitioner submitted the issue fee, the petitioner did not submit replacement drawings as required by the Notice, mailed July 9, 2010.

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure: Final Rule Notice, 62 Fed. Reg. 53131, 5194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

In regards to item (4), since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required.

Accordingly, this application cannot be revived until replacement drawings and a terminal disclaimer is submitted.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Internet: EFS-Web[3]

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

[3] 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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SUITE 624
TROY, MI 48084

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DEC 17 2010

OFFICE OF PETITIONS

In re Application of
James Blain
Application No. 29/344,705
Filed: October 2, 2009
Attorney Docket No. JBL-102-A-DESIGN

: DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 17, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue fee and corrected formal drawings on or before October 12, 2010, as required by the Notice of Allowability For A Design Application and the Notice of Allowance and Fee(s) Due mailed July 9, 2010, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on October 13, 2010. On October 14, 2010, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed November 3, 2010. In response the present petition was filed.

This 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 $430 and replacement drawings, (2) the petition fee of $810, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee of $70 as required by 37 CFR 1.137(d).

The terminal disclaimer filed November 17, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 0 1 2010
OFFICE OF PETITIONS

In re Application of :
James Blain :
Application No. 29/344,706 : DECISION ON PETITION
Filed: October 2, 2009 :
Attorney Docket No. JBL-101-A-DESIGN :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue fee and to submit corrected formal drawings on or before October 12, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 12, 2010. Accordingly, the date of abandonment of this application is October 13, 2010. A Notice of Abandonment was mailed October 21, 2010.

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 items (1) and (4).

With respect to item (1), petitioner has failed to submit corrected drawings as required by the Notice mailed July 12, 2010.

With respect to item (4), since the instant application is a design application, a terminal disclaimer (form enclosed) and $70.00 fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. A terminal disclaimer cannot be signed by an attorney in representative capacity.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/63

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NOV 30 2010

OFFICE OF PETITIONS

In re Application of	:	
James Blain	:	
Application No. 29/344,706	:	DECISION ON PETITION
Filed: October 2, 2009	:	
Attorney Docket No. JBL-101-A-DESIGN	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 17, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and to submit corrected formal drawings on or before October 12, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 12, 2010. Accordingly, the date of abandonment of this application is October 13 13, 2010. A Notice of Abandonment was mailed October 21, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $430.00 (previously paid October 15, 2010), and Corrected drawings, (2) the petition fee of $810.00 (previously paid October 15, 2010); (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and required $70.00 fee.

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the Corrected Drawings submitted with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-6-11 **Paper No.:** _____

TO SPE OF : ART UNIT 2915

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/344,719 Patent No.: D0619329

CofC mailroom date: 4-1-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Drawings

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Chris Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ SPE, 2915
SPE **Art Unit**

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GREENVILLE SC 29602-1449

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SEP 02 2011

OFFICE OF PETITIONS

In re Application of
DRUMMOND
Application No. 29/344,743
Filed: October 2,2009
Attorney Docket No. PPPL-1-D

DECISION
ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 2011.

The petition is **DISMISSED.**

The application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed January 3, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on April 5, 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) (4).

With respect to item (4): A terminal disclaimer and the $140 ($70 if small entity) terminal disclaimer fee is required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995. The terminal disclaimer must dedicate to the public a terminal part of the term of any patent granted on the application equivalent to the period of abandonment of the application, and must also apply to any patent granted on any application containing a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.
If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(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 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

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

MAILED
SEP 2 9 2011
OFFICE OF PETITIONS

In re Application of :
DRUMMOND :
Application No. 29/344,743 :
Filed: October 2,2009 :
Attorney Docket No. PPPL-1-D :

DECISION
ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 13, 2011.

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 March 29, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on June 30, 2011. A Notice of Abandonment was mailed July 18, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings; (2) the petition fee of $810; (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer.

The replacement drawings will be forwarded to the appropriate office for approval.

The Terminal Disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to the Office of Data Management for processing into a patent.

/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
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RAYMOND N. ERVIN, LTD.
P.O. BOX 6219
BUFFALO GROVE IL 60089

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Foster et al.	:	
Application No. 29/344,763	:	DECISION ON PETITION
Filed: October 3, 2009	:	
Attorney Docket No. JF-2008-DES-C003	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 5, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (4).

With respect to item (4), since the instant application is a design application, a terminal disclaimer (form enclosed) and small entity $70.00 fee are required by 37 CFR 1.137(b) for revival. Further, a terminal disclaimer must be signed by a registered patent attorney or patent agent of record appointed in compliance with § 1.32(b) or an assignee as provided under § 3.71(b) of this chapter. A terminal disclaimer cannot be signed by an attorney in representative capacity.

Additionally, petitioner asserts that "A terminal disclaimer was also filed on 17 November 2010 with the required fees in response to a restriction requirement under CFR 1.1321(c) and remains in effect." However, a terminal disclaimer to accompany petition (form PTO/SB/63) and fee are required by 37 CFR 1.137(b) for revival of a design application.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/63

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RAYMOND N. ERVIN, LTD.
P.O. BOX 6219
BUFFALO GROVE IL 60089

MAILED

MAR 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Foster et al.	:	
Application No. 29/344,763	:	DECISION ON PETITION
Filed: October 3, 2009	:	
Attorney Docket No. JF-2008-DES-C003	:	

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**.

This application became abandoned for failure to timely submit Corrected Drawings on or before November 26, 2010, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed August 26, 2010. Accordingly, the date of abandonment of this application is November 27, 2010. A Notice of Abandonment was mailed December 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Corrected Drawings (previously submitted January 5, 2011), (2) the petition fee of $810.00 (previously paid January 5, 2011); (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and required $70.00 fee.

The request for a terminal disclaimer is accepted and has been made of record.

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 and review of the Corrected Drawings submitted January 5, 2011.

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

RUBEN ALCOBA, ESQ.
3399 NW 72 Avenue
Suite 211
Miami, FL 33122

MAILED

OCT 05 2010

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Paul Tanger	:	
Application No. 29/344,764	:	DECISION ON PETITION
Filed: October 3, 2009	:	TO WITHDRAW
Attorney Docket No. D106	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Ruben Alcoba, Esq. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Jonathan Paul Tanger 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: **Jonathan Tanger**
11800 NW 21 Court
Plantation, FL 33323

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
29/344,764	10/03/2009	Jonathan Paul Tanger	D106

CONFIRMATION NO. 5358

POWER OF ATTORNEY NOTICE

54569
RUBEN ALCOBA, ESQ.
3399 NW 72 AVENUE
SUITE211
MIAMI, FL 33122

Date Mailed: 10/01/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/13/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ZARIAN MIDGLEY & JOHNSON PLLC
UNIVERSITY PLAZA, 960 BROADWAY AVE., SUITE 250
BOISE ID 83706

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Rich, Kevin Wayne	:	
Application No. 29/344,999	:	ON PETITION
Filed: October 7, 2009	:	
Attorney Docket No. BLDG.003D	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 10, 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 Corrected Drawings, (2) the petition fee of $810.00, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer.

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

July 12, 2011

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park NC 27709

Re Application of
SMART, COLIN
Application: **29/345111**
Filed: **10/09/2009**
Attorney Docket No: **025761-000014**

: 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 01, 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

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.
29/345,111	10/09/2009	Colin Smart	025761-000014	2317

7590 07/13/2011

MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

EXAMINER	
CALABRESE, MARY ANN	

ART UNIT	PAPER NUMBER
2913	

MAIL DATE	DELIVERY MODE
07/13/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WEINER & BURT, P.C.
635 N US-23
POB 186
HARRISVILLE MI 48740

MAILED
OCT 07 2010
OFFICE OF PETITIONS

In re Application of	:	
Amanda Blakeman	:	
Application No. 29/345,231	:	DECISION ON PETITION
Filed: October 13, 2009	:	
Attorney Docket No. BAM101D	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 13, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before June 30, 2010, as required by the Notice of Allowance and Fee(s) Due mailed March 31, 2010. Accordingly, the date of abandonment of this application is July 1, 2010. A Notice of Abandonment was mailed July 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $430.00, (2) the petition fee of $810.00; (3) a proper statement of unintentional delay; and (4) a Terminal Disclaimer and fee of $70.00.

The request for a terminal disclaimer is accepted and has been made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Publishing Division for processing into a patent.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Manuel Valcarcel, Esq.
Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami FL 33131

MAILED
NOV 05 2010
OFFICE OF PETITIONS

In re Application of :
Riley :
Application No.: 29/345,325 : DECISION GRANTING PETITION
Filed: October 14, 2009 :
Attorney Docket No.: 118230.010100 :
FOR: ILLUMINATION SOURCE :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application and the petition under 37 CFR 1.137(b) to revive the above-identified application. Both petitions were filed on August 13, 2010.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The Office contended that the above-identified application became abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due, mailed March 9, 2010, which set a period for reply of three (3) months. Having received no reply, the Office considered the application abandoned on June 10, 2010. A Notice of Abandonment was mailed on June 25, 2010.

The Office received an acceptable revocation/power of attorney/change of address on March 9, 2010. A proper revocation/power of attorney/change of correspondence address is effective when filed, not when processed. As the correspondence was received on the same date the Notice of Allowance and Fee(s) Due was mailed, there was insufficient time to make the requested changes and the Notice of Allowance and Fee(s) Due was mailed to the previous correspondence address of record. Applicants have established that they did not receive the March 9, 2010 Notice of Allowance and Fee(s) Due.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

The petition under 37 CFR 1.137(b) is dismissed as moot. The $810.00 petition fee and the $70.00 terminal disclaimer fee will be credited to deposit account no.50-1792. The terminal disclaimer will not be entered.

After the mailing of this decision, the application will be forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Ham :
Application No. 29/345,371 : NOTICE
Filed: October 14, 2009 :
Attorney Docket No. 845951(53591) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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Bib Data Sheet

CONFIRMATION NO. 8033

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
29/345,371	10/14/2009 RULE	D12	2917	845951(53591)

APPLICANTS

Won S. Ham, Seoul, KOREA, REPUBLIC OF;

** **CONTINUING DATA** **********

** **FOREIGN APPLICATIONS** **********

REPUBLIC OF KOREA 30-2009-0018460 04/29/2009

IF REQUIRED, FOREIGN FILING LICENSE GRANTED

** 05/07/2010

		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
Foreign Priority claimed ☐ yes ☐ no 35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance Verified and Acknowledged Examiner's Signature Initials		KOREA, REPUBLIC OF	6	1	1

ADDRESS

21874

TITLE

AUTOMOBILE

FILING FEE RECEIVED		
530	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/22/2011 Paper No.: —

TO SPE OF : ART UNIT 2911

SUBJECT : Request for Certificate of Correction for Appl. No.: 29/345493 Patent No.: D624931 S

CofC mailroom date: 3/17/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Talbert
Certificates of Correction Branch
571·272·0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

CATHRON C. BROOKS
~~SUPERVISORY PATENT EXAMINER~~

SPE — 2911 Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADAMS INTELLECTUAL PROPERTY LAW
SUITE 2350 CHARLOTTE PLAZA
201 SOUTH COLLEGE STREET
CHARLOTTE NC 28244

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Application of :
John Hein :
Application No. 29/345,633 : ON PETITION
Filed: October 20, 2009 :
For: HAIR IRON :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, 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(4).

A terminal disclaimer and fee is required for design applications in accordance with 37 CFR 1.137(d).

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
www.uspto.gov

ADAMS INTELLECTUAL PROPERTY LAW
SUITE 2350 CHARLOTTE PLAZA
201 SOUTH COLLEGE STREET
CHARLOTTE NC 28244

MAILED
NOV 09 2010
OFFICE OF PETITIONS

In re Application of :
John Hein :
Application No. 29/345,633 : ON PETITION
Filed: October 20, 2009 :
Attorney Docket No. 3823/10-A :

This is a decision on the papers filed October 15, 2010, which is being treated as a renewed petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely submit corrected drawings as required by the Notice of Allowance/Notice of Allowability mailed on March 10, 2010. A Notice of Abandonment was mailed on July 7, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (4).

Petitioner submitted two copies of the terminal disclaimer on October 15, 2010, without the fee required by 37 CFR 1.20(d). Petitioner should note that one copy of the terminal disclaimer was construed as a renewed petition.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 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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ADAMS INTELLECTUAL PROPERTY LAW
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201 SOUTH COLLEGE STREET
CHARLOTTE NC 28244

MAILED

DEC 07 2010

OFFICE OF PETITIONS

In re Application of
John Hein
Application No. 29/345,633
Filed: October 20, 2009
Attorney Docket No. 3823/10-A

DECISION 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 **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 corrected drawings and terminal disclaimer/fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance/Notice of Allowability mailed March 10, 2010, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to the Office of Data Management to be processed into a patent and for review of the drawings submitted on November 16, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110315

DATE : March 15, 2011

TO SPE OF : ART UNIT 2916

SUBJECT : Request for Certificate of Correction on Patent No.: D629692

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:

/IAN SIMMONS/
Supervisory Patent Examiner.Art Unit 2916

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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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE IL 60048-5343

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Knoppert, et al. :
Application No. 29/345,802 :
Filed: October 22, 2009 :
Attorney Docket No. CS36952 :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 2010, to revive the above-identified application.

The petition is hereby GRANTED.

The application became abandoned January 6, 2010 for failure to timely submit a proper reply to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed November 5, 2009. The Notice set a set a two month statutory period of time for reply. This decision precedes Notice of Abandonment. A petition under 37 CFR 1.137(b) was filed May 26, 2010 and dismissed June 15, 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.

Accordingly, 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) 272-3205.

/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
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Paper No.

STETINA BRUNDA
GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO CA 92656

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Rechberg et al. : DECISION ON
Application No. 29/345,965 : PETITION
Filed: October 23, 2009 :
Attorney Docket No. ACTRN-018D:

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 **GRANTED**.

The above-identified application became abandoned December 30, 2010 for failure to timely pay the issue fee in response to the Notice of Allowance and Fee(s) Due mailed August 19, 2010. The Notice set a three-month extendable period for submitting the issue fee. Applicant did not submit the issue fee until November 29, 2010. (Applicant states he erroneously thought that the period for paying the issue fee was extended with the mailing of a new Notice of Allowability). A courtesy Notice of Abandonment was mailed on December 2, 2010.

The required reply[1] was previously filed on November 29, 2010. The petition includes the required statement of unintentional delay, payment of the petition fee and a terminal disclaimer. All requirements of 37 CFR 1.137(b) have been met.

The terminal disclaimer is accepted and made of record.

The application is being forwarded to the Office of Data Management for processing into a patent.

[1] There was no requirement for payment of a publication fee. Applicant otherwise timely responded to the requirements set forth by the examiner in the Notice of Allowability.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
29/345,981	10/23/2009	Donald Gray		1221

91303 7590 01/24/2011

Donald N. Gray
1720 Delaware Ave.
Santa Monica, CA 90404

EXAMINER	
LAYMON, WAN	
ART UNIT	PAPER NUMBER
2916	
MAIL DATE	DELIVERY MODE
01/24/2011	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.

UNITED STATES 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 24, 2011

Donald N. Gray
1720 Delaware Ave.
Santa Monica CA, 90404

In re Application of:
Donald N. Gray
Serial No.: 29/345981
Filed: October 23, 2009

Title: Garment

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the Petition of October 23, 2009 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

The application is eligible for accelerated examination and the petition complies with the conditions for granting the application special status pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published June 26, 2006, in the Federal Register. (71 Fed. Reg. 36323).

The prosecution of the instant application will be conducted expeditiously according to the following guidelines.

1. The application will be docketed to an examiner and taken up for action within two weeks of the date of this decision.

2. Restriction Practice:
If the examiner determines that the claims are not directed to a single invention, a telephone request to elect one single invention will be made pursuant to MPEP 812.01. As a prerequisite to the grant of this petition, the applicant has agreed to make an oral election, by telephone, without traverse. If the applicant refuses to make an election without traverse, or the examiner cannot reach the applicant after a reasonable effort, the examiner will treat the first claimed invention

(invention defined by claim 1) as having being constructively elected without traverse for examination.

3. Office action:
If it is determined that, after appropriate consultation, there is a potential rejection or any other issue to be addressed, the examiner will telephone the applicant and arrange an interview to discuss and resolve the issue. An Office action, other than a Notice of Allowance and Fee(s) Due (Notice of Allowance), will not be issued unless either: 1) an interview was conducted but did not result in agreed to action that places the application in condition for allowance, or, 2) a determination is made that an interview would be unlikely to result in the application being placed in condition for allowance, and 3) an internal conference has been held to review any rejection of any claim.

4. Time for Reply:
An Office action other than a Notice of Allowance or a final Office action will set a shortened statutory period of one month or thirty days, whichever is longer, for reply with no extension of time available under 37 CFR 1.136(a). Failure to timely file a reply within this non-extendible period for reply will result in the abandonment of the application.

5. Reply by Applicant:
A timely reply to an Office action other than the Notice of Allowance must be submitted electronically via EFS or EFS-web and limited to addressing the rejections, objections and requirement made. Any amendment that attempts to: 1) add claims which would result in more than three pending independent claims or more than twenty pending total claims; 2) present claims not encompassed by the pre-examination search or an updated accelerated examination support document; or 3) present claims that are directed a non-elected invention or an invention other than that previously claimed and examined in the application, will be treated as not fully responsive and will not be entered.

For any amendment to the claims (including any new claim) that is not encompassed by the accelerated examination support document, applicant must provide an updated accelerated examination support document that encompasses the amended or new claims at the time of filing of the amendment.

To proceed expeditiously with the examination, it is recommended that a reply with amendments made to any claim or with any new claim being added be accompanied by an updated accelerated examination support document or a statement explaining how the amended or new claim is supported by the original accelerated examination support document.

6. Information Disclosure Statement (IDS):
   Any IDS filed during prosecution must be submitted electronically via EFS or EFS-web, accompanied by an updated accelerated examination support document, and be in compliance with 37 CFR 1.97 and 1.98.

7. Post-Allowance Processing:
   To expedite processing of the allowed application into a patent, the applicant must: 1) pay the required fees within one month of the date of the Notice of Allowance, and 2) not file any post allowance papers not required by the Office. In no event may the issue fee be paid and accepted later than three months from the date of the Notice of Allowance.

8. After-Final and Appeal Procedures:
   To expedite prosecution, after receiving the final Office action, applicant must: 1) promptly file a notice of appeal, an appeal brief and appeal fees; and 2) not request a pre-appeal brief conference.

   Any amendment, affidavit or other evidence filed after final Office action must comply with applicable rules and the requirements outlined in numbered paragraphs 5 and 6 above.

   On appeal, the application will proceed according to normal appeal procedures. After appeal, the application will again be treated special.

9. Proceedings Outside the Normal Examination Process:
   If the application becomes involved in a proceeding that is outside the normal examination process (e.g., a secrecy order, national security review, interference proceeding, petitions under 37 CFR 1.181, 182 or 183), the application will be treated special before and after such proceeding.

10. Final Disposition:
    The twelve-month goal of this accelerated examination procedure ends with a final disposition. The mailing of a final Office action, a Notice of Allowance, the filing of a Notice of Appeal, or the filing of a Request for Continued Examination (CPA) is the final disposition.

If, during prosecution, a paper is not filed electronically using EFS-web, a reply is filed but is not fully responsive, the application is involved in an appeal or a proceeding outside normal examination process, the application will still be examined expeditiously, however, the final disposition may occur more than twelve months from the filing of the application.

Any inquiry regarding this decision should be directed to Ian Simmons at (571) 272-2658.

Ian Simmons
Supervisory Patent Examiner, Art Unit 2916

UNITED STATES 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
Carolyn Foor Florimonte

Application No. 29346053

Filed: October 26,2009

Attorney Docket No. 6354090

:
:
:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)
:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 22-SEP-2010 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Doc Code: PET.AUTO
Doc Description: Petition Automatically granted by EFS

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	29346053	Confirmation Number	2070	Filing Date	2009-10-26
Attorney Docket Number (optional)	6354090	Art Unit		Examiner	
First Named Inventor	Carolyn Foor Florimonte				
Title of Invention	OUTDOOR FENCING				

Attention: Office of Petitions
An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Carolyn	Foor	Florimonte	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Kevin Prince/	Date (YYYY-MM-DD)	2010-09-22
Name	Kevin Prince	Registration Number	57207

Doc Code: PET.AUTO
Doc Description: Petition Automatically granted by EFS

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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AMPACC Law Group, PLLC
6100 219th Street SW, Suite 580
Mountlake Terrace, WA 98043

MAILED

OCT 19 2011

OFFICE OF PETITIONS

In re Application of :
Joshua Reed Plaisted, et. al. :
Application No. 29/346,056 : ON PETITION
Filed: October 26, 2009 :
Attorney Docket No. 900RO-000210US :

This is a decision on the petition under 37 CFR 1.137(b), filed on October 3, 2011, to revive the above-identified application.

The above-identified application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed October 25, 2010. A Notice of Abandonment was mailed on February 9, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $495 for payment of the design issue fee; (2) the petition fee of $930; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Therefore, the petition is **GRANTED**.

The terminal disclaimer under 37 CFR 1.137(d), filed October 3, 2011, has been accepted and made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

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OCT 20 2010

OFFICE OF PETITIONS

In re Application of
Robert J. Libman et al.
Application No. 29/346,104
Filed: October 27, 2009
Attorney Docket Number: 006387.00409

ON PETITION

This is a decision on the petition, filed September 22, 2010 under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed April 5, 2010 which set a three month statutory period for response. Accordingly, a Notice of Abandonment was mailed July 23, 2010.

All other requirements of 37 CFR 1.137(b), including the filing of a terminal disclaimer, having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110517

DATE : May 17, 2011

TO SPE OF : ART UNIT 2917

SUBJECT : Request for Certificate of Correction on Patent No.: D615459

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 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: /Philip Hyder/ **Art Unit** 2917

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SYCAMORE BUILDING – 4TH FLOOR
299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
George Scott Kerr et al :
Application No. 29/346,244 : ON PETITION
Filed: October 29, 2009 :
For: PET FOOD SUPPLEMENT PACKAGE :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, 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(4).

A terminal disclaimer and fee is required for design applications in accordance with 37 CFR 1.137(d).

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

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299 EAST SIXTH STREET
CINCINNATI OH 45202

MAILED

DEC 01 2011

OFFICE OF PETITIONS

In re Application of :
George Scott Kerr et al :
Application No. 29/346,244 : DECISION ON PETITION
Filed: October 29, 2009 :
Attorney Docket No.PD-132D :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 11, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before May 25, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 25, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 26, 2010. A Notice of Abandonment was mailed on June 17, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $860.00 issue fee, (2) the petition fee of $1,620.00, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance/Notice of Allowability is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the

terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3208.

This application is being referred to the Office of Data Management for further processing in accordance with this decision on petition.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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HEATHER N. SCHAFER
5639 N. KENMORE AVE #2
CHICAGO, IL 60660

MAILED

NOV 22 2011

OFFICE OF PETITIONS

In re Application of :
Micky Gallas :
Application No. 29/346,291 : DECISION ON PETITION
Filed: October 29, 2009 :
Attorney Docket No. 110-D301 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2011, to revive the above-identified design application.

The petition is **GRANTED**.

This application became abandoned for failure to timely to submit corrected formal drawings on or before September 13, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed June 13, 2011. Accordingly, the date of abandonment of this application is September 14, 2011. A Notice of Abandonment was mailed on September 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) corrected formal drawings , (2) the petition fee of $930; (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice of Allowance is accepted as being unintentionally delayed.

The drawings have been approved by the USPTO draftsperson.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

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 further processing in accordance with this decision on petition.

April M. Wise
Petitions Examiner
Office of Petitions

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MINNEAPOLIS MN 55440

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JAN 12 2011

OFFICE OF PETITIONS

In re Application of :
Bauck, et al. :
Application No. 29/346,305 : DECISION ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. 1644US1 :
For: HOSE REEL

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed October 27, 2010, to revive the above-identified application. In addition, this decision addresses the "Petition to Modify Inventor's Names Prior to Issuance of Patent," filed October 27, 2010, which will be treated under 37 CFR 1.182.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

The petition under 37 CFR 1.182 is **DISMISSED.**

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

This application became abandoned for failure to timely pay the issue fee on or before October 13, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 13, 2010. The date of abandonment is October 14, 2010. A Notice of Abandonment was issued on October 28, 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 lacks item (3).

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).

Petitioner argues 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. Petitioner asserts that only one hour after a paralegal allegedly obtained oral advice from the examiner of record on the procedure to modify the names of some of the inventors, that the paralegal was called away fro a sick child for several days. As a result, payment of the issue fee was not made prior to the October 13, 2010 due date.

Petitioner was aware that the issue fee was due prior to October 13, 2010. Petitioner delayed payment of the issue fee in order to attempt to modify the names of some of the inventors. An applicant may delay action until the end of the time period for reply. In doing so, however, the applicant must assume the risk attendant to such delay. *See* Ex parte Warren, 1901 Dec. Comm'r Pat. 137 (Comm'r Pat. 1901).

Petitioner did not treat payment of the issue fee as his most important business. Preoccupation with other matters which took precedence over the payment of the issue fee does not constitute unavoidable delay. *See* Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

The petition under 37 CFR 1.137(a) is dismissed.

Petitioner is strongly encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application

without a showing that the delay in 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).

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).

With respect to the petition under 37 CFR 1.182, the petition is not accompanied by the required $400.00 petition fee. 37 CFR 1.17(f). The merits of the petition will not be addressed until payment is received.

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)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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MAR 01 2011

OFFICE OF PETITIONS

In re Application of :
Bauck, et al. :
Application No. 29/346,305 : DECISION ON PETITION
Filed: October 29, 2009 :
Attorney Docket No. 1644US1 :

This is a decision on the renewed petition under 37 CFR 1.182, filed, January 20, 2011 , to change the name of inventors "You Zaixing" to -- Zaixing You --, "Gao Lihui" to -- Lihui Gao--, "Wu Xueshui" to – Xueshui Wu --, and "Fu Qing" to -- Qing Fu -- . In addition, this decision addresses the petition under 37 CFR 1.137(b).

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.137(b) 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 "Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

With respect to the petition under 37 CFR 1.182, Office records have been updated to reflect the change in order of the Chinese inventors' names. The names are those listed in the ADS filed on August 27, 2010. A corrected Filing Receipt, which reflects the changes, accompanies this decision on petition.

The printing of the patent may have progressed to the point where the correct order of the inventors' names could not be included on the front page of the Letters Patent. In such event, petitioners may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

With respect to the petition under 37 CFR 1.137(b), the petition is dismissed and the merits of the petition will not be addressed because the petition is not signed. No additional petition fee will be due when petitioners file a reconsideration petition.

37 CFR 1.33(b) states that any amendments and other papers filed in an application must be signed by (1) an appointed registered attorney or agent; (2) a registered attorney or agent not appointed, but acting in a representative capacity, (3) an assignee under 3.71(b); or (4) all of the named inventors.

In any reconsideration petition, please file another copy of the petition properly signed.

Regarding fees, petitioners have submitted two $140.00 terminal disclaimer fees. Only one is required. Deposit account no. 07-1775 will be refunded $140.00.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

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
29/346,305	10/29/2009	2915	590	1644US1	1	1

CONFIRMATION NO. 7099

25279
GRACO MINNESOTA INC
PO BOX 1441
MINNEAPOLIS, MN 55440

CORRECTED FILING RECEIPT

OC000000046027662

Date Mailed: 02/16/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Mark L. Bauck, Coon Rapids, MN;
Zaixing You, Phenix City, CHINA;
Lihui Gao, JiangSu, CHINA;
Xueshui Wu, Phenix City, CHINA;
Jin Tian, Can Lang Borough, CHINA;
Brian J. Zumbolo, Lino Lakes, MN;
Anthony J. Gargano, Savage, MN;
Scott F. Hill, Maple Grove, MN;
Qing Fu, Shanghai, CHINA;
Wade D. Palashewski, Andover, MN;
Thomas R. Larsen, Elk River, MN;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

Permission to Access - A proper **Authorization to Permit Access to Application by Participating Offices** (PTO/SB/39 or its equivalent) has been received by the USPTO.

If Required, Foreign Filing License Granted: 11/05/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 29/346,305**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

HOSE REEL

Preliminary Class

D08

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

MAILED

MAR 28 2011

OFFICE OF PETITIONS

GRACO MINNESOTA INC
PO BOX 1441
MINNEAPOLIS MN 55440

In re Application of :
Bauck, et al. :
Application No. 29/346,305 : DECISION ON PETITION
Filed: October 29, 2002 :
Attorney Docket No. 1644US1 :
For: HOSE REEL

This is a decision on the renewed petition under the unintentional delay standard of 37 CFR 1.137(b), filed March 7, 2011.

The petition under 37 CFR 1.137(b) is **GRANTED.**

This application became abandoned for failure to timely pay the issue fee on or before October 13, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed July 13, 2010. The date of abandonment is October 14, 2010. A Notice of Abandonment was issued on October 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of payment of the issue fee of $860.00; (2) the petition fee of $1620.00; (3) a proper statement of unintentional delay; and (4) a terminal disclaimer accompanied by the required $140.00 fee.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to the Office of Data Management for processing into a patent. Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LI-WEI SHAN
3F, NO. 11 KE JUNG RD., CHU-NAN SITE
HSINCHU SCIENCE PARK, CHU-NAN
MIAO-LI 350 TW TAIWAN

MAILED

AUG 10 2010

OFFICE OF PETITIONS

In re Application of :
Shan, et al. :
Application No. 29/346,320 :
Filed: 30 October, 2009 :
Attorney Docket No. SEMI/2009-010US :

DECISION

This is a decision on the petition filed on 29 June, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **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.

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:

The Applicant failed to reply timely and properly to the drawings requirement of the Notice of Allowance/Allowability and Fees Due mailed on 22 February, 2010, with reply due under a non-extendable deadline on or before (Monday) 24 May, 2010.

The application went abandoned by operation of law after midnight 24 May, 2010.

The Office mailed the Notice of Abandonment on 8 June, 2010.

On 29 June, 2010, Petitioner Li-Wei Shan (Petitioner) filed/signed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of drawings, and made a statement of unintentional delay—but with no applicable power of attorney in place and with the petition executed only by Petitioner and not by Petitioner's co-inventor as well and the terminal disclaimer executed by someone who is neither attorney of record nor the co-inventors/applicants. Petitioner is:

- reminded that this is a design application; and
- directed, as always in this regard, to the guidance in the commentary at MPEP §711.03(c)(II).

Thus, it is apparent that the petition and the terminal disclaimer are not satisfactorily signed/executed and so the petition and disclaimer requirements under the Rule have not been satisfied.

All deficiencies must be overcome on any renewed petition.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

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

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).

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]

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. Petitioner has not satisfied the petition and the disclaimer requirements under the rule.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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[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.))

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 regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LI-WEI SHAN
3F, NO. 11 KE JUNG RD., CHU-NAN SITE
HSINCHU SCIENCE PARK, CHU-NAN
MIAO-LI 350 TW TAIWAN

MAILED
JAN 21 2011
OFFICE OF PETITIONS

In re Application of :
Shan, et al. :
Application No. 29/346,320 : DECISION
Filed: 30 October, 2009 :
Attorney Docket No. SEMI/2009-010US :

This is a decision on the petition filed on 26 August, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

The Applicant failed to reply timely and properly to the drawings requirement of the Notice of Allowance/Allowability and Fees Due mailed on 22 February, 2010, with reply due under a non-extendable deadline on or before (Monday) 24 May, 2010.

The application went abandoned by operation of law after midnight 24 May, 2010.

The Office mailed the Notice of Abandonment on 8 June, 2010.

Application No. 29/346,320

On 29 June, 2010, Petitioner Li-Wei Shan (Petitioner) filed/signed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of drawings, and made a statement of unintentional delay—but with no applicable power of attorney in place and with the petition executed only by Petitioner and not by Petitioner's co-inventor as well and the terminal disclaimer executed by someone who is neither attorney of record nor the co-inventors/applicants. Petitioner was: reminded that this is a design application; and directed, as always in this regard, to the guidance in the commentary at MPEP §711.03(c)(II). The petition was dismissed on 10 August, 2010.

On 26 August, 2010, Petitioners Li-Wei Shan and Wen-Huang Liu filed/signed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), pointed to the drawings formerly filed, and made a statement of unintentional delay, and both of the co-inventors also signed and filed the terminal disclaimer (with fee).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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WEN HUANG LIU
3F, NO. 11 KE JUNG RD., CHU-NAN SITE
HSINCHU SCIENCE PARK, CHU-NAN
MIAO-LI COUNTY 350 TW TAIWAN

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Liu, et al. :
Application No. 29/346,321 : DECISION
Filed/Deposited: 30 October, 2009 :
Attorney Docket No. SEMI/2009-011US :

This is a decision on the petition filed on 29 June, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the drawings requirement within the Notice of Allowance/Allowability and Fees Due mailed on 26 February, 2010, with reply due under a non-extendable deadline on or before 26 May, 2010.

The application went abandoned by operation of law after midnight 26 May, 2010.

The Office mailed a Notice of Abandonment 14 June, 2010.

On 29 June, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of replacement drawings, with a terminal disclaimer and fee (the application previously was assigned to the assignee (and recorded in Office records) on behalf of which the terminal disclaimer was executed), and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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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ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612-1599

MAILED
FEB 01 2011
OFFICE OF PETITIONS

In re Application of :
Mudd et al. :
Application No.: 29/346343 : ON PETITION
Filing or 371(c) Date: 10/30/2009 :
Title of Invention: :
COMBINATION HANDHELD DELIVERY :
DEVICE AND CONTROLLER UNIT :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed October 27, 2010.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed June 7, 2010. The Notice(s) set a non-extendable three (3) month period for reply. Applicant submitted the issue fee on July 13, 2010; however, the Notice of Allowability required corrected drawings. No complete and proper reply having been received, the application became abandoned on September 8, 2010. A Notice of Abandonment was mailed September 15, 2010.

The present petition

Applicant files the present petition and corrected drawings in response to the Notice; however, no Terminal Disclaimer has been filed.

Applicable Law, Rules and MPEP

A petition to revive an abandoned application on the grounds that the failure to reply was

unintentional (37 CFR 1.137(b)) must be accompanied by: (1) the required reply; (2) 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; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(d) (see above discussion); and (4) the petition fee as set forth in 37 CFR 1.17(m). Applicant lacks item (3).

Analysis and conclusion

A terminal disclaimer and the terminal disclaimer fee are required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995.

Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/D LW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Terminal Disclaimer Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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ALLERGAN, INC.
2525 DUPONT DRIVE, T2-7H
IRVINE CA 92612-1599

MAILED
MAR 31 2011
OFFICE OF PETITIONS

In re Application of :
Mudd et al. :
Application No.: 29/346343 : ON PETITION
Filing or 371(c) Date: 10/30/2009 :
Title of Invention: :
COMBINATION HANDHELD DELIVERY :
DEVICE AND CONTROLLER UNIT :

This is a decision on the renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed February 10, 2011, and supplemented March 24, 2011.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed June 7, 2010. The Notice(s) set a non-extendable three (3) month period for reply. Applicant submitted the issue fee on July 13, 2010; however, the Notice of Allowability required corrected drawings. No complete and proper reply having been received, the application became abandoned on September 8, 2010.

The renewed 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 (filed on July 13, 2010) and corrected drawings (filed October 27, 2010); (2) the petition fee (filed on October 27, 2010), (3) a proper statement of unintentional delay (filed on March 24, 2011), and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d) (filed February 10, 2011). Accordingly, the failure to timely pay the issue fee as required by the Notice is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on any continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/D LW/

Derek L. Woods
Attorney
Office of Petitions

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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of
Jason D. McAlonan
Application No. 29/346,355
Filed: October 30, 2009
Attorney Docket No. OOF-10117/33

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 11, 2010, to revive the above-identified design application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 15, 2010, as required by the Notice of Allowance and Fee(s) Due mailed December 15, 2009, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on March 16, 2010. On April 1, 2010, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed May 20, 2010. In response the present petition was filed.

The present 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 $430, (2) the petition fee of $810, (3) an adequate statement of unintentional delay, and (4) a terminal disclaimer and fee of $70 as required by 37 CFR 1.137(d). Accordingly, the failure to timely submit the issue fee as required by the Notice of Allowability is accepted as being unintentionally delayed.

The terminal disclaimer filed June 11, 2010 is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-6059.

This application is being referred to Technology Center AU 2913 for appropriate action in the normal course of business on the CPA filed April 1, 2010.

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

MAILED

JUL 11 2011

OFFICE OF PETITIONS

GEOFFREY E. DOBBIN, PATENT ATTORNEY
4278 SOUTH 6220 WEST
WEST VALLEY CITY UT 84128-6501

In re Application of :
Richard M. FITZPATRICK et al. : ON PETITION
Application No. 29/346,401 :
Filed: October 30, 2009 :
Atty. Docket No.: GDRMF01E4

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed June 28, 2010, which set a statutory period for reply of three (3) months. The application became abandoned September 29, 2010. A Notice of Abandonment was mailed October 10, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the Issue fee, and submission of Application Data Sheet (ADS) as required by the Notice, (2) a petition fee of $810, (3) a statement of unintentional delay, and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file 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

MAILED
AUG 23 2011
OFFICE OF PETITIONS

JACKIE JAY SCHWARTZ
245 Fifth Avenue
Suite 1902
NEW YORK NY 10016

In re Application of :
Michael Edward JONES : ON PETITION
Application No. 29/346,582 :
Filed: November 3, 2009 :
Atty. Docket No.: 1031-70

This is a decision on the petition under 37 CFR 1.181, filed July 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the Notice of Allowance and Fees Due mailed February 24, 2011 (Notice), which set a statutory period for reply of three (3) months. A Notice of Abandonment was mailed July 11, 2011.

Petitioner requests the Notice of Abandonment mailed July 11, 2011 be withdrawn as petitioner timely paid the issue fees in accordance with the Notice. A review of record indicates that the issue fee of $860 was timely paid on July 30, 2010. It is further noted that as the supplemental Notice of Allowability mailed April 18, 2011 did not include a requirement for corrected drawings, the previously stated requirement for corrected drawings was withdrawn by the examiner.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Office of Data Management for further processing.

for Anthony Knight
Director
Office of Petitions

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DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY NY 11797

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of :
Mats Andersson :
Application No.: 29/346677 : ON PETITION
Filing or 371(c) Date: 11/04/2009 :
Title of Invention: :
SIGN SUPPORT :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed September 7, 2010.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed June 3, 2010. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on September 4, 2010. A Notice of Abandonment was mailed September 15, 2010.

The present petition

Applicant files the present petition, issue fee, and corrected drawings in response to the Notice; however, no Terminal Disclaimer has been filed.

Applicable Law, Rules and MPEP

A petition to revive an abandoned application on the grounds that the failure to reply was unintentional (37 CFR 1.137(b)) must be accompanied by: (1) the required reply; (2) 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; (3) any terminal disclaimer required pursuant to 37 CFR 1.137(d) (see above discussion); and (4) the petition fee as set forth in 37 CFR 1.17(m). Applicant lacks item (3).

Analysis and conclusion

A terminal disclaimer and the terminal disclaimer fee are required under 37 CFR 1.137(d) if the application is: (1) a design application, (2) a utility application filed before June 8, 1995, or (3) a plant application filed before June 8, 1995.

Since the above-identified application is a design application, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months from the date of abandonment to the date of filing a grantable petition. A terminal disclaimer fee of $140 ($70 if small entity) is required. If the terminal disclaimer is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/D LW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Terminal Disclaimer Form

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DILWORTH & BARRESE, LLP
1000 WOODBURY ROAD
SUITE 405
WOODBURY NY 11797

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Application of :
Mats Andersson :
Application No.: 29/346677 : ON PETITION
Filing or 371(c) Date: 11/04/2009 :
Title of Invention: :
SIGN SUPPORT :

This is a decision on the renewed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed December 30, 2010.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability, mailed June 3, 2010. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on September 4, 2010. A Notice of Abandonment was mailed September 15, 2010.

The renewed 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 and corrected drawings (filed on September 7, 2010); (2) the petition fee (filed on September 7, 2010), (3) a proper statement of unintentional delay (filed on September 7, 2010), and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the failure to timely pay the issue fee as required by the Notice is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on any continuing application. A copy of this decision should be attached to the cover letter.

This application is being referred to Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/D LW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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PATENT LAW OFFICES OF DR. NORMAN B. THOT
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RATINGEN 40837 DE GERMANY

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Application of :
Tibor Herglotz et al. :
Application No. 29/346,737 :
Filed: November 5, 2009 :
Attorney Docket No. JK/HAH 0901 US-DP :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 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 29, 2010, as required by the Notice of Allowance and Fee(s) Due mailed September 29, 2010. Accordingly, the date of abandonment of this application is December 30, 2010. A Notice of Abandonment was mailed on January 12, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee of $860, (2) the petition fee of $1,620, (3) a proper statement of unintentional delay and, (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d). Accordingly, the issue fee is accepted as being unintentionally delayed.

The terminal disclaimer is accepted and has been made of record. Any continuing application filed from this application must contain a copy of the terminal disclaimer. The copy of the terminal disclaimer must be filed with a cover letter requesting the terminal disclaimer be recorded on the continuing application. A copy of this decision should be attached to the cover letter.

The petition under 37 CFR 1.182, filed February 25, 2011, requesting expedited handling of the petition to revive filed on January 15, 2011, has been **GRANTED**.

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 Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions