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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/946,461	09/19/2023	11763316	8201-0013	9140

55246 7590 08/30/2023

Cuenot, Forsythe & Kim
5425 Park Central Court
Suite 111
Naples, FL 34109

ISSUE NOTIFICATION

The projected patent number and issue date are specified above. The patent will issue electronically. The electronically issued patent is the official patent grant pursuant to 35 U.S.C. § 153. The patent may be accessed on or after the issue date through Patent Center at https://patentcenter.uspto.gov/. The patent will be available in both the public and the private sides of Patent Center. Further assistance in electronically accessing the patent, or about Patent Center, is available by calling the Patent Electronic Business Center at 1-888-217-9197.

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Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment is 1861 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Center (https://patentcenter.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Patents Stakeholder Experience (OPSE), Stakeholder Support Division (SSD) at (571)-272-4200.

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INVENTOR(s) (Please see PATENT CENTER site https://patentcenter.uspto.gov for additional inventors):

THOMAS L. DISTEFANO III, BOCA RATON, FL;

APPLICANT(s) (Please see PATENT CENTER site https://patentcenter.uspto.gov for additional applicants):

PT 259, LLC, Boca Raton, FL;

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TO: terry.forsythe@iplawpro.com,kevin.cuenot@iplawpro.com,ptomail@iplawpro.com
FROM: noreply@uspto.gov
CC: patentcenter_eofficeaction@uspto.gov
SUBJECT: USPTO: Patent Electronic System - Correspondence Notification for Customer Number 55246

Fri Sep 01 05:39:42 EDT 2023

Dear Patent Center Customer:

Correspondence Address:

Cuenot, Forsythe &Kim
5425 Park Central Court
Suite 111
Naples,FLORIDA,34109
UNITED STATES

This is a courtesy notification regarding the following USPTO patent application(s) associated with your Customer Number, 55246, that have new outgoing correspondence. This correspondence is now available for viewing in Patent Center.

The official date of notification of the outgoing correspondence will be indicated on the form (e.g., PTOL-90) accompanying the correspondence.

Disclaimer:
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Application	Document	Mailroom Date	Attorney Docket No.
13946461	ISSUE.NTF	08/30/2023	8201-0013

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If you have any questions, please contact the Patent Electronic Business Center (EBC) at ebc@uspto.gov or 866-217-9197 Monday – Friday, 6 a.m. to midnight ET.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/946,461	07/19/2013	THOMAS L. DISTEFANO III	8201-0013	9140

55246 7590 09/19/2023

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EXAMINER
KOLOSOWSKI-GAGER, KATHERINE

ART UNIT	PAPER NUMBER
3622	

NOTIFICATION DATE	DELIVERY MODE
09/19/2023	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):

kevin.cuenot@iplawpro.com
ptomail@iplawpro.com
terry.forsythe@iplawpro.com

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APPLICATION NO.	ISSUE DATE	PATENT NO.
13/946,461	19-Sep-2023	11763316

Cuenot, Forsythe & Kim
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EGRANT NOTIFICATION

Your electronic patent grant (eGrant) is now available, which can be accessed via Patent Center at https://patentcenter.uspto.gov

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Attorney Docket No.: 8201-0013 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of	:	Customer Number: 55246
Thomas DISTEFANO III	:	Confirmation Number: 9140
Patent No.: 11,763,316	:	Issued: September 19, 2023
Application No.: 13/946,461	:	Group Art Unit: 3622
Filed: July 19, 2013	:	Examiner: K. Kolosowski-Gager

For: SERVER SYSTEM CONFIGURED TO PROVIDE GRAPHICAL USER INTERFACE FOR MODIFYING WEB PAGES TO INCLUDE HYPERLINKS

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705

Director
Office of Petitions
US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition seeks review of the United State Patent Office's (USPTO) calculation of Patent Term Adjustment (PTA) for the above-identified application. Pursuant to 37 C.F.R. § 1.705(b), this Request is accompanied by the fee set forth in 37 C.F.R. § 1.18(e) and is timely filed no later than two months from September 19, 2023, which is the date the Patent was issued

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STATEMENT OF FACTS

Pursuant to 37 C.F.R. § 1.705(i), Patentee will address the correct Patent Term Adjustment and the basis therefor in the "Discussion" section included herein.

Pursuant to 37 C.F.R. § 1.705(ii), Patentee will address the relevant dates for which an adjustment is sought and the adjustment to which the Patent is entitled in the "Discussion" section included here. APPENDIX A, accompanying the present Request, is a copy of the USPTO's PTA calculation, as provided by the Patent Application Information Retrieval (PAIR) system,

Pursuant to 37 C.F.R. § 1.705(iii), Patentee notes that the Patent is not subject to a terminal disclaimer.

Pursuant to 37 C.F.R. § 1.705(iv), Patentee contests certain, but not all, of the USPTO's determinations as to the number of days of Applicant Delay. These specific instances will be addressed in the "Discussion" section included herein.

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ATTACHMENTS

The following documents[1] are attached hereto and referenced before in the "Discussion" section:

APPENDIX A: Patent Term Adjustment Calculations taken from PRIVATE PAIR for U.S. Patent Application No. 13/946,461.

APPENDIX B: Electronic Acknowledgement Receipt for an Appeal Brief dated October 2, 2017.

APPENDIX C: Issue Notification for U.S. Patent No. 11,763,316.

APPENDIX D: Notice of Non-Responsive Amendment dated January 19, 2021.

APPENDIX E: Decision on Petition dated September 15, 2021.

APPENDIX F: Email from Examiner Kolosowski dated November 16, 2021.

APPENDIX G: Email from paralegal, Alaine Allison, dated March 17, 2022.

APPENDIX H: Email from Examiner Kolosowski dated March 25, 2022.

[1] Unless indicated otherwise, all attachment involve U.S. Patent Application No. 13/946,461.

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DISCUSSION

Patentee contests the USPTO's determination regarding Applicant delay in three separate instances. Patentee will separately address these instances in the following three Sections.

SECTION I

The determination that 668 days of alleged Applicant delay associated with the filing of an Appeal Brief is incorrect. For reasons discussed below, Patentee believes that the proper number should be 61 days – not 668 days. Reference is made to the Patent Term Calculations contained in Appendix A, a portion of which is reproduced below:

84	07-05-2019	Appeal Brief Filed		668	79
83	10-02-2017	Request for Extension of Time - Granted			0
82	08-14-2017	Electronic Information Disclosure Statement			0
81	06-13-2017	case Inherited			0
80	06-13-2017	Case Docketed to Examiner in GAU			0
79	06-02-2017	Notice of Appeal Filed		31	75
78	06-02-2017	Request for Extension of Time - Granted			0
77	02-02-2017	Electronic Review			0
76	02-02-2017	Email Notification			0
75	02-02-2017	Mail Final Rejection (PTOL - 326)	40		69

Referring to line 84 of the Patent Term Calculations, the filing date of the Appeal Brief is listed as July 5, 2019, which is incorrect. Reference is made to Appendix B, which shows that the Appeal Brief was filed on October 2, 2017, and is consistent with the filing of the Request for Extension of Time referred to in line 83 of the Patent Term Calculations. The difference between

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the actual filing date of the Appeal Brief (October 2, 2017) and the due date of the Appeal Brief (August 2, 2017[2]) is 61 days. This 61 days is the correct amount of Applicant delay associated with the filing of the Appeal Brief on October 2, 2017.

The difference between the USPTO's calculated 668 days of Applicant delay and the 61 days of the correctly-determined Applicant delay is 607 days. Therefore, Patentee respectfully requests that 607 days be added to the 1861 days of PTA already indicated in the Issue Notification (Appendix C).

SECTION II

The determination that 55 days of alleged Applicant delay associated with the filing of an alleged Non-Responsive Amendment after Examiner Action is incorrect. For reasons discussed below, Patentee believes that the proper number should be 0 days – not 55 days. Reference is made to the Patent Term Calculations contained in Appendix A, a portion of which is reproduced below:

162	09-15-2021	Mail TC Petition Granted	0
161	09-13-2021	Office Action Review	0
160	09-13-2021	TC Petition Granted	0
159	05-25-2021	Email Notification	0
158	05-25-2021	Mail Notice of Informal or Non-Responsive Amendment	0
154	01-25-2021	Date Forwarded to Examiner	0
153.1	01-19-2021	Informal or Non-Responsive Amendment after Examiner Action	0

[2] The Appeal Brief was due 2 months after the filing of the Notice of Appeal. The Notice of Appeal was filed on June 2, 2017, and consequently, the Appeal Brief was due on August 2, 2017.

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153	01-19-2021	Response after Non-Final Action	55	142
152	01-19-2021	Email Notification		0
151	01-19-2021	Mail Notice of Informal or Non-Responsive Amendment		0
150	12-10-2020	Email Notification		0
149	12-10-2020	Mail Examiner Interview Summary (PTOL - 413)		0
148	11-25-2020	Interview Summary - Applicant Initiated - Telephonic		0
147	12-05-2020	Interview Summary Record		0
146	11-28-2020	Date Forwarded to Examiner		0
145.1	11-25-2020	Informal or Non-Responsive Amendment after Examiner Action		0
145	11-25-2020	Response after Non-Final Action		0

In line 145, Applicant filed a Response to a Non-Final Action on November 25, 2020. On January 19, 2021 (line 151), the Examiner mailed a Notice of Non-Responsive Amendment (Appendix D). Applicant immediately filed a response to the Notice of Non-Responsive Amendment that very same day on January 19, 2021 (line 153). The 55 days listed in line 153 of the Patent Term Calculations appears to be the difference between the filing of Applicant's Response on November 25, 2020, and the filing of Applicant's Response on January 19, 2021. However, as discussed in greater detail below, the Response filed on November 25, 2020, was a proper response and should have been entered. Consequently, the Examiner's Notice of Non-Responsive Amendment was in error.

A portion of page 4 of the Notice of Non-Responsive Amendment is reproduced below:

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> Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-66 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.
>
> Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a shortened statutory period of TWO (2) MONTHS from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE but in no case can any extension carry the date for reply to this letter beyond the maximum period of SIX MONTHS set by statute (35 U.S.C. 133).

Referring to the first of the two above-reproduced paragraphs, the Examiner's position was that the newly-presented claims 47-66 were to be "withdrawn from consideration as being directed to a non-elected invention." This was the basis of the Examiner's assertion that the Response was "Non-Responsive" as the Examiner previously asserted on page 2 of the Notice that "Applicant has … present[ed] only claims drawn to a non-elected invention [which] is non-responsive (MPEP § 821.03) and has not been entered."

On January 19, 2021, Applicant traversed the Examiner's position that claims drawn to a non-elected invention were presented. On May 25, 2021 (line 158), the Examiner reaffirmed the Examiner's original position in a subsequent Notice of Non-Responsive Amendment. On June 4, 2021, Applicant filed a Petition under 37 C.F.R. § 1.144 that requested that the Examiner's withdrawal of claims 47-66 as being drawn to a non-elected invention be overruled. In a Decision on Petition dated September 15, 2021 (Appendix E), Applicant's Petition was granted, a portion of which is reproduced below:

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Conclusion

In summary, the restriction requirement set forth May 25, 2021 is improper and herein withdrawn. Accordingly, claims 47-66 are rejoined for consideration. The requested withdrawal of the restriction requirement will be granted. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3622 for consideration of the amendment filed on 11/25/2020. Any questions regarding this communication should be directed to Marc Jimenez, Quality Assurance Specialist, at (571) 272-4530.

The Petition is **GRANTED**.

Therefore, the Examiner's original position, as stated in the Notice of Non-Responsive Amendment dated January 19, 2021, that "Applicant has ... present[ed] only claims drawn to a non-elected invention [which] is non-responsive (MPEP § 821.03)" was not properly founded. Consequently, Applicant's Response filed on November 25, 2020, was not a non-responsive or informal Response. On this basis, the 55 days listed in line 153 of the Patent Term Calculations is not proper.

As a secondary basis for the 55 days listed in line 153 of the Patent Term Calculations not being proper, in the second of the above-reproduced paragraphs from the Examiner's analysis on page 4 of the Notice of Non-Responsive Amendment , the Examiner explicitly asserted that "the above-mentioned amendment appears to be a bona-fide attempt to reply." For reasons discussed in greater detail in Section III, under Supernus, a reduction in PTA can only be made for "the period of time during which an applicant fails to engage in reasonable efforts." In this instance, the Examiner admits that Applicant's Response was "a bona-fide attempt to reply," which means that a reasonable effort was made by Applicant.

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For either of the two basis listed above, Patentee respectfully requests that 55 days be added to the 1861 days of PTA already indicated in the Issue Notification (Appendix C).

SECTION III

The determination that 486 days of alleged Applicant delay associated with the filing of a Supplemental Amendment on May 20, 2022 is incorrect. For reasons discussed below, Patentee believes that the proper number should be 0 days – not 486 days. Reference is made to the Patent Term Calculations contained in Appendix A, a portion of which is reproduced below:

172	05-20-2022	Supplemental Response	486	153
171	05-26-2022	Date Forwarded to Examiner		0
170	05-20-2022	Supplemental Response		0
169	03-28-2022	Date Forwarded to Examiner		0
168	03-21-2022	Supplemental Response		0
167	02-22-2022	Date Forwarded to Examiner		0
166	11-25-2020	Response after Non-Final Action		0
165	01-12-2022	Interview Request Correction		0
164	11-15-2021	Electronic request for Examiner Interview		0
163	09-16-2021	Email Notification		0
162	09-15-2021	Mail TC Petition Granted		0
161	09-13-2021	Office Action Review		0
160	09-13-2021	TC Petition Granted		0
159	05-25-2021	Email Notification		0
158	05-25-2021	Mail Notice of Informal or Non-Responsive Amendment		0
154	01-25-2021	Date Forwarded to Examiner		0
153.1	01-19-2021	Informal or Non-Responsive Amendment after Examiner Action		0
153	01-19-2021	Response after Non-Final Action	55	142

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In line 168 of the Patent Term Calculations, after an initial and proper[3] response filed on November 25, 2020, Applicant filed a Supplemental Response on March 21, 2022, and a Second Supplemental Response on May 20, 2022. The 486 days listed in line 172 of the Patent Term Calculations appears to be the difference between the filing of Applicant's Response on January 19, 2021, and the filing of Applicant's Second Supplemental Response on May 20, 2022.

In a conversation with Kery Fries, Senior Legal Advisor to the USPTO regarding Patent Term Adjustment, on September 1, 2023, Mr. Fries confirmed that the 486 days were based upon 37 C.F.R. § 1.704(c)(8). However, such a determination is inconsistent with Federal Circuit case law. In Supernus Pharms., Inc. v. Iancu, the Federal Circuit specifically looked at subsection (c)(8), and noted "this court has grappled with the reasonableness of 37 C.F.R. § 1.704(c)(8)." 913 F.3d 1351, 1356 (Fed. Cir. 2017) (emphasis added). As characterized by the Federal Circuit in Supernus:

> The precise question at issue in this case is whether the USPTO may reduce PTA by a period that exceeds the "time during which the applicant failed to engage in reasonable efforts to conclude prosecution."

Id. at 1358.

After construing the language of 35 U.S.C. § 154(C)(i), the Federal Circuit determined the following

> Thus, the statutory period of PTA reduction must be the same number of days as the period from the beginning to the end of the applicant's failure to engage in reasonable efforts to conclude prosecution. PTA cannot be reduced by a period of time during which there is no identifiable effort in which the applicant could have engaged to conclude prosecution because such time would not be "equal to" and

[3] See discussion in Section II herein.

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> would instead exceed the time during which an applicant failed to engage in reasonable efforts.

Id. at 1359 (emphasis added). In evaluating the facts presented, the Federal Circuit noted the following:

> We agree with Supernus that there were no efforts that it could have taken in the period of time during the preceding 546 days. The record is silent as to what Supernus could have done to conclude prosecution during the 546-day time period, beginning with the filing of the RCE/IDS on February 22, 2011, and ending on the date of the EPO notification, August 21, 2012. Nor does the USPTO contend that Supernus could have undertaken any "reasonable efforts" during the 546-day time period to conclude prosecution.

Id. at 1360. Like in Supernus, the record is silent as to what Applicant could have reasonably done to conclude prosecution during the 486 day time period.

On the contrary and as discussed in Section II, on January 19, 2021, Applicant traversed the Examiner's position that claims drawn to a non-elected invention were presented and filed a Petition under 37 C.F.R. § 1.144 on May 25, 2021. This Petition was subsequently granted on September 15, 2021. These proper actions taken by Applicant represent reasonable efforts by Applicant to have the Amendment dated November 25, 2020, entered into the record, and this Amendment was a reasonable attempt to conclude prosecution. Therefore, any delay from January 19, 2021, to the Petition being granted on September 15, 2021, is a consequence of the USPTO improperly not entering the Amendment over that time period.

Additionally, after the Petition was granted on September 15, 2021, Applicant contacted the Examiner to set up an interview on November 15, 2021.[4] In an email dated November 16,

[4] See Line 164 of the Patent Term Calculations.

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2021 (Appendix F), the Examiner indicated that "I just realized this isn't currently 'on' my active docket ... [c]an we table this until it is moved to my active docket?" Reference is made to an email dated March 22, 2022 (Appendix G), which states "Examiner Kolosowski just called to let us know the application was back up on her docket, and she is ready to re-schedule the interview." Consequently, any delay from September 15, 2021, to March 22, 2022, is a consequence of the USPTO not properly placing the U.S. Application No. 13/946/461 (hereinafter the '461 Application) in the Examiner's active docket over that time period.

Additionally and with reference to an email dated March 29, 2022 (Appendix H), the Examiner wrote "I apologize, I need to reschedule this again." Applicant followed up with emails dated March 29, 2022, and April 1, 2022 to reschedule the interview, which were not responded to. During this time period, on March 21, 2022, Applicant filed the First Supplemental Amendment to address some minor issues with the claims. However, none of these changes impacted the arguments previously presented in the Amendment dated November 25, 2020. Moreover, based upon the Examiner's voicemail on March 22, 2022, that indicated that "the application was back on her docket," it can be readily assumed that the filing of the First Supplemental Amendment on March 21, 2022, prompted the USPTO to return the application to the Examiner's active docket on the very next day.

At the same time Applicant was attempting to interview the Examiner regarding the '461 Application, Applicant was also prosecuting related U.S. Application No. 13/946,489 (hereinafter the '489 Related Application). After engaging with a different Examiner, Alexandru Cirnu, with a series of interviews in late-April/early-May of 2022, Applicant filed an Amendment with a new

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set of claims on April 29, 2022, and on May 13, 2022, a Notice of Allowance was issued in the '489 Related Application. Since the '489 Related Application contained a rejection very similar to a rejection presented in the '461 Application, Applicant recrafted the claims in the '461 Application using the same approach that was able to overcome the similar rejection in the '489 Related Application. These recrafted claims were presented in a Second Supplemental Amendment dated May 20, 2022 – just 7 days after the Notice of Allowance in the '489 Related Application was issued. While Applicant presented new claims in the present '461 Application, Applicant maintained the same arguments that were previously presented in the Amendment dated November 25, 2020.

On May 26, 2022, Applicant was finally able to conduct an interview with Examiner Kolosowski in which Applicant both informed Examiner Kolosowski of the Notice of Allowance in the '489 Related Application and discussed the claims presented in the Second Supplemental Amendment. Ultimately, the claims presented in the Second Supplemental Amendment were allowed. Notably, however, the claims presented in the Second Supplemental Amendment were indirectly the result of the number of interviews conducted with Examiner Cirnu during late-April/early-May of 2022. Only after those claims were allowed on May 13, 20022, were Applicant reasonably certain that a similar approach could be used to conclude prosecution in the '461 Application.

As stated above, Supernus stands for the proposition that the USPTO may reduce PTA only for "time during which the applicant failed to engage in reasonable efforts to conclude prosecution." Specifically, the Federal Circuit stated:

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> Stated differently, PTA reduction cannot exceed the period of time during which an applicant failed to engage in reasonable efforts. Thus, if there is no period of time ***during which*** the applicant could have but failed to engage in reasonable efforts, there can be no reduction to the PTA.

Id. at 1359 (emphasis in original).

As argued above, there is nothing in the record that supports a finding that Application failed to engage in reasonable efforts to conclude prosecution or could have, but did not, engage in reasonable efforts to conclude prosecution. On the contrary, Applicant continually made reasonable efforts to conclude prosecution. The filing on January 19, 2021, and the Petition filed May 25, 2021, were efforts to have entered the Amendment dated November 25, 2020, which was itself a reasonable effort to conclude prosecution. Applicant's attempt to interview the Examiner after the Petition was granted – both in November of 2021 and March of 2022, were reasonable efforts to conclude prosecution. The filing of the First and Second Supplemental Amendments were also reasonable efforts to conclude prosecution.

While the record shows that Applicant was continually diligent in attempting to conclude prosecution, the opposite can be said about the USPTO. The Examiner improperly refused to enter into the record the Amendment of November 25, 2020 – this improper refusal being confirmed by the Decision on Petition dated September 15, 2021. Additionally, although the Examiner was aware that the application was not yet in the Examiner's "active docket" at least as early as November 15, 2021, no apparent efforts were made to place the application back on the Examiner's active docket until March of 2022, and even then, it appears that the placing of the application back on the Examiner's active docket was a direct result of Applicant's efforts (i.e., the filing of the First Supplemental Amendment). Moreover, while Applicant attempted to perform an

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interview in March of 2021, the Examiner was unable to perform this interview until late May of 2022. Finally, the only time Applicant was reasonably certain that a possible alternative[5] approach to concluding prosecution was on May 13, 2022, after the Notice of Allowance was issued in the '489 Related Application. Finally, the mere 7-day delay between the receipt of this Notice of Allowance in the '489 Related Application and the filing of the Second Supplemental Amendment on May 20, 2022, in the '461 Application is not unreasonable.

Based upon the foregoing, Patentee respectfully submits that a finding cannot be made that "applicant failed to engage in reasonable efforts to conclude prosecution" from the period of January 19, 2021, through May 20, 2022. Consequently, the 486 days indicated as being Applicant delay in line 172 of the Patent Term Calculations is incorrect. The proper number should be 0 days – not 486 days. Therefore, Patentee respectfully requests that 486 days be added to the 1861 days of PTA already indicated in the Issue Notification.

CONCLUSION

Consistent with the arguments made in Sections I, II, and III above, Patentee requests that 607 days (as discussed in Section I), 55 days (as discussed in Section II), and 486 days (as discussed in Section III) be added to the 1861 days of PTA already indicated in the Issue Notification. This would result in a new total PTA of 3009 days.

[5] Applicant does not concede that the Amendment dated November 25, 2020, was not a reasonable attempt to conclude prosecution. On the contrary, Applicant's position is that the claims presented therein were patentable. Ultimately, those claims were never examined by the Examiner.

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PRAYER FOR RELIEF

Pursuant to 37 C.F.R. § 1.705, Patentee respectfully requests that Overall PTA for U.S. Patent No. 11,763,316 be adjusted to 3009 days.

Please charge any shortage in fees due, and in connection with the filing of this paper, including extension of time fees, to Deposit Account 503611, and please credit any excess fees to such deposit account.

Date: September 19, 2023

Respectfully submitted,

/Scott D. Paul/
Scott D. Paul
Registration No. 42,984
CUSTOMER NUMBER 55246

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13/946,461	SERVER SYSTEM CONFIGURED TO PROVIDE GRAPHICAL USER INTERFACE FOR MODIFYING WEB PAGES TO INCLUDE HYPERLINKS	8201-0013	09-19-2023::13:23:33

Patent Term Adjustment

Filing or 371(c) Date:	07-19-2013	Overlapping Days Between {A and B} or {A and C}:	40
Issue Date of Patent:	09-19-2023	Non-Overlapping USPTO Delays:	3170
A Delays:	592	PTO Manual Adjustments:	0
B Delays:	2618	Applicant Delays:	1309
C Delays:	0	Total PTA Adjustments:	1861

Patent Term Adjustment History — Explanation of Calculations

Number	Date	Contents Description	PTO(Days)	APPL(Days)	Start
220.5	09-19-2023	PTA 36 Months	2618		0.5
220	09-19-2023	Patent Issue Date Used in PTA Calculation			0
219	08-05-2023	Export to Final Data Capture			0
218	08-04-2023	Dispatch to FDC			0
217	08-04-2023	Application Is Considered Ready for Issue			0
216	08-02-2023	Issue Fee Payment Verified			0
215	08-02-2023	Issue Fee Payment Received			0
214	06-14-2023	Finished Initial Data Capture			0
213	06-06-2023	Export to Initial Data Capture			0
212	06-09-2023	Electronic Review			0
211	06-09-2023	Email Notification			0
210	06-09-2023	Filing Receipt - Replacement			0
209	06-07-2023	Electronic Review			0
208	06-07-2023	Electronic Review			0
207	06-07-2023	Email Notification			0
206	06-07-2023	Mail Notice of Allowance			0
205	06-04-2023	Office Action Review			0
204	06-04-2023	Office Action Review			0
203	06-04-2023	Issue Revision Completed			0
202	06-04-2023	Document Verification			0

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201	06-04-2023	Notice of Allowance Data Verification Completed	0
200	05-25-2023	Reasons for Allowance	0
199	05-25-2023	Allowability Notice	0
197	05-16-2023	Date Forwarded to Examiner	0
196	12-13-2022	Withdrawing/Vacating Office Action Letter	0
193	04-13-2023	Electronic Review	0
192	04-13-2023	Email Notification	0
191	04-13-2023	Mail O.P. Petition Decision	0
190	04-10-2023	Office Action Review	0
189	04-11-2023	Mail-Petition Decision - Granted	0
188	04-10-2023	Petition Decision - Granted	0
187	04-08-2023	O.P. Petition Decision	0
186	12-13-2022	Petition Entered	0
185	12-13-2022	Electronic Review	0
184	12-13-2022	Email Notification	0
183	12-13-2022	Mail Miscellaneous Communication to Applicant	0
182	12-07-2022	Miscellaneous Action with SSP	0
181	11-30-2022	Electronic Review	0
180	11-30-2022	Email Notification	0
179	11-30-2022	Mail O.P. Petition Decision	0
178	11-23-2022	Office Action Review	0
177	11-25-2022	Mail-Petition Decision - Dismissed	0
176	11-23-2022	Petition Decision - Dismissed	0
175	11-23-2022	O.P. Petition Decision	0
174	05-20-2022	Petition Entered	0
173	05-26-2022	Date Forwarded to Examiner	0

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172	05-20-2022	Supplemental Response	486	153
171	05-26-2022	Date Forwarded to Examiner		0
170	05-20-2022	Supplemental Response		0
169	03-28-2022	Date Forwarded to Examiner		0
168	03-21-2022	Supplemental Response		0
167	02-22-2022	Date Forwarded to Examiner		0
166	11-25-2020	Response after Non-Final Action		0
165	01-12-2022	Interview Request Correction		0
164	11-15-2021	Electronic request for Examiner Interview		0
163	09-16-2021	Email Notification		0
162	09-15-2021	Mail TC Petition Granted		0
161	09-13-2021	Office Action Review		0
160	09-13-2021	TC Petition Granted		0
159	05-25-2021	Email Notification		0
158	05-25-2021	Mail Notice of Informal or Non-Responsive Amendment		0
154	01-25-2021	Date Forwarded to Examiner		0
153.1	01-19-2021	Informal or Non-Responsive Amendment after Examiner Action		0
153	01-19-2021	Response after Non-Final Action	55	142
152	01-19-2021	Email Notification		0
151	01-19-2021	Mail Notice of Informal or Non-Responsive Amendment		0
150	12-10-2020	Email Notification		0
149	12-10-2020	Mail Examiner Interview Summary (PTOL - 413)		0
148	11-25-2020	Interview Summary - Applicant Initiated - Telephonic		0
147	12-05-2020	Interview Summary Record		0
146	11-28-2020	Date Forwarded to Examiner		0
145.1	11-25-2020	Informal or Non-Responsive Amendment after Examiner Action		0

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145	11-25-2020	Response after Non-Final Action	0
144	08-25-2020	Electronic Review	0
143	08-25-2020	Email Notification	0
142	08-25-2020	Mail Non-Final Rejection	0
141	08-01-2020	Non-Final Rejection	0
139	07-29-2020	Withdrawing/Vacating Office Action Letter	0
138	06-03-2020	Email Notification	0
137	06-02-2020	Mail TC Petition Granted	0
136	05-29-2020	Office Action Review	0
135	05-21-2020	TC Petition Granted	0
134	05-21-2020	Mail-Petition Decision - Granted	0
133	05-20-2020	Petition Decision - Granted	0
132	12-18-2019	Petition Entered	0
127	10-24-2019	Appeal ready for PTAB docketing	0
126	10-24-2019	Email Notification	0
125	10-24-2019	Mail Miscellaneous Communication to Applicant	0
124	10-21-2019	Miscellaneous Communication to Applicant - No Action Count	0
123	10-18-2019	Electronic Review	0
122	10-18-2019	Email Notification	0
121	10-17-2019	Return of Undocketed appeal to the TC	0
120	10-17-2019	Exam. Ans. Review Complete	0
119	10-18-2019	Mail Examiner's Answer	0
118	10-15-2019	Examiner's Answer to Appeal Brief	0
117	07-18-2019	Appeal Brief Review Complete	0
116	07-18-2019	Date Forwarded to Examiner	0
115	07-05-2019	track 1 OFF	0

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114	07-05-2019	Appeal Brief Filed	0
113	07-05-2019	Request for Extension of Time - Granted	0
112	02-11-2019	Notice of Appeal Filed	0
111	02-11-2019	Request for Extension of Time - Granted	0
110	08-10-2018	Electronic Review	0
109	08-10-2018	Email Notification	0
108	08-10-2018	Mail Final Rejection (PTOL - 326)	0
107	08-05-2018	Final Rejection	0
106	06-05-2018	Mail Interview Summary - Applicant Initiated - Telephonic	0
105	05-30-2018	Interview Summary - Applicant Initiated - Telephonic	0
104	05-08-2018	Date Forwarded to Examiner	0
103	04-20-2018	Response after Non-Final Action	0
102	04-20-2018	Request for Extension of Time - Granted	0
101	04-05-2018	Electronic request for Examiner Interview	0
100	12-21-2017	Electronic Review	0
99	12-21-2017	Email Notification	0
98	12-21-2017	Mail Non-Final Rejection	0
97	12-18-2017	Office Action Review	0
96	12-11-2017	Non-Final Rejection	0
95	11-07-2017	case Inherited	0
94	11-07-2017	Case Docketed to Examiner in GAU	0
93	11-05-2017	Appeal Brief Review Complete	0
92	11-05-2017	Date Forwarded to Examiner	0
91	10-31-2017	track 1 OFF	0
90	10-31-2017	Appeal Brief Filed	0
89	10-30-2017	Email Notification	0

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88	10-26-2017	Appeal Brief Review Complete			0
87	10-30-2017	Notice -- Defective Appeal Brief			0
86	10-26-2017	Date Forwarded to Examiner			0
85	10-02-2017	track 1 OFF			0
84.1	10-02-2017	Defective / Incomplete Appeal Brief Filed			0
84	07-05-2019	Appeal Brief Filed		668	79
83	10-02-2017	Request for Extension of Time - Granted			0
82	08-14-2017	Electronic Information Disclosure Statement			0
81	06-13-2017	case Inherited			0
80	06-13-2017	Case Docketed to Examiner in GAU			0
79	06-02-2017	Notice of Appeal Filed		31	75
78	06-02-2017	Request for Extension of Time - Granted			0
77	02-02-2017	Electronic Review			0
76	02-02-2017	Email Notification			0
75	02-02-2017	Mail Final Rejection (PTOL - 326)	40		69
74	01-29-2017	Office Action Review			0
73	01-29-2017	Final Rejection			0
72	01-12-2017	Information Disclosure Statement considered			0
71	09-01-2016	Electronic Information Disclosure Statement		8	69
70	09-14-2016	Date Forwarded to Examiner			0
69	08-24-2016	Response after Non-Final Action		61	64
68	09-01-2016	Information Disclosure Statement (IDS) Filed			0
67	08-24-2016	Request for Extension of Time - Granted			0
66	03-24-2016	Electronic Review			0
65	03-24-2016	Email Notification			0
64	03-24-2016	Mail Non-Final Rejection	552		0.5

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63	03-21-2016	Office Action Review	0
62	03-18-2016	Office Action Review	0
61	03-09-2016	Office Action Review	0
60	03-07-2016	Office Action Review	0
59	03-06-2016	Non-Final Rejection	0
58	01-21-2016	Oath or Declaration Filed (Including Supplemental)	0
56	01-23-2016	Office Action Review	0
55	01-23-2016	Office Action Review	0
47	04-28-2014	Information Disclosure Statement considered	0
46	01-27-2014	Information Disclosure Statement considered	0
45	08-27-2013	Information Disclosure Statement considered	0
44	08-02-2013	Information Disclosure Statement considered	0
43	07-19-2013	Information Disclosure Statement considered	0
42	07-19-2013	Information Disclosure Statement considered	0
41	07-19-2013	Information Disclosure Statement considered	0
40	12-15-2015	Case Docketed to Examiner in GAU	0
39	11-17-2015	Case Docketed to Examiner in GAU	0
38	11-05-2015	Case Docketed to Examiner in GAU	0
37.09	08-31-2015	Application ready for PDX access by participating foreign offices	0
34	04-28-2014	Electronic Information Disclosure Statement	0
33	04-28-2014	Information Disclosure Statement (IDS) Filed	0
32	01-27-2014	Electronic Information Disclosure Statement	0
31	01-27-2014	Information Disclosure Statement (IDS) Filed	0
30	11-15-2013	Email Notification	0
29	11-14-2013	PG-Pub Issue Notification	0
28	08-02-2013	Electronic Information Disclosure Statement	0

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27	07-19-2013	Electronic Information Disclosure Statement	0
26	07-19-2013	Preliminary Amendment	0
25	08-27-2013	Preliminary Amendment	0
24	08-27-2013	Information Disclosure Statement (IDS) Filed	0
23	08-27-2013	Preliminary Amendment	0
22	08-27-2013	Information Disclosure Statement (IDS) Filed	0
21	08-27-2013	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED	0
20	08-27-2013	Terminal Disclaimer Filed	0
19	08-12-2013	Case Docketed to Examiner in GAU	0
18	08-09-2013	Application Is Now Complete	0
17	08-09-2013	Email Notification	0
16	08-09-2013	Email Notification	0
15	08-09-2013	Change in Power of Attorney (May Include Associate POA)	0
14	08-08-2013	FITF set to NO - revise initial setting	0
13	08-08-2013	Application Is Now Complete	0
12	08-08-2013	Application Dispatched from OIPE	0
11	08-09-2013	Filing Receipt	0
10	08-05-2013	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27	0
9	07-19-2013	Applicants have given acceptable permission for participating foreign	0
8	08-02-2013	Information Disclosure Statement (IDS) Filed	0
7	07-25-2013	Cleared by OIPE CSR	0
6	07-19-2013	Information Disclosure Statement (IDS) Filed	0
5	07-19-2013	Information Disclosure Statement (IDS) Filed	0
4	07-19-2013	Information Disclosure Statement (IDS) Filed	0
3	07-19-2013	IFW Scan & PACR Auto Security Review	0
2	07-19-2013	Entity Status Set To Undiscounted (Initial Default Setting or Status Change)	0

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1	07-19-2013	Initial Exam Team nn		0
0.5	07-19-2013	Filing date		0

Close Window

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APPENDIX B

Electronic Acknowledgement Receipt	
EFS ID:	30540930
Application Number:	13946461
International Application Number:	
Confirmation Number:	9140
Title of Invention:	RECIPROCAL INSERTION OF IDENTIFICATION ELEMENTS FOR WEB PAGES
First Named Inventor/Applicant Name:	THOMAS L. DISTEFANO
Customer Number:	55246
Filer:	Scott David Paul/Alaine Allison
Filer Authorized By:	Scott David Paul
Attorney Docket Number:	8201-0013
Receipt Date:	02-OCT-2017
Filing Date:	19-JUL-2013
Time Stamp:	16:29:34
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$300
RAM confirmation Number	100317INTEFSW00003808503611
Deposit Account	
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:	

APPENDIX B

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Appeal Brief Filed	8201-0013_AppealBrief_10-02-17.pdf	1182788 f23a7adbe1c527b6d750576367ce8bc13e bd43e	no	52
Warnings:					
Information:					
2	Extension of Time	8201-0013_ExtensionofTime_10-02-17.pdf	133750 8d061b6dcfa5589cbe1b69aaaa9d8716573 526d5	no	1
Warnings:					
Information:					
3	Fee Worksheet (SB06)	fee-info.pdf	30732 b2ee645f695bbe86067ca6658332 5bc7bf6b5	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	1347270		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.
National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.
New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

APPENDIX 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.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/946,461	09/19/2023	11763316	8201-0013	9140

55246 7590 08/30/2023

Cuenot, Forsythe & Kim
5425 Park Central Court
Suite 111
Naples, FL 34109

ISSUE NOTIFICATION

The projected patent number and issue date are specified above. The patent will issue electronically. The electronically issued patent is the official patent grant pursuant to 35 U.S.C. § 153. The patent may be accessed on or after the issue date through Patent Center at https://patentcenter.uspto.gov/. The patent will be available in both the public and the private sides of Patent Center. Further assistance in electronically accessing the patent, or about Patent Center, is available by calling the Patent Electronic Business Center at 1-888-217-9197.

The USPTO is implementing electronic patent issuance with a transition period, during which period the USPTO will mail a ceremonial paper copy of the electronic patent grant to the correspondence address of record. Additional copies of the patent (i.e., certified and presentation copies) may be ordered for a fee from the USPTO's Certified Copy Center at https://certifiedcopycenter.uspto.gov/index.html. The Certified Copy Center may be reached at (800)972-6382.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment is 1861 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Center (https://patentcenter.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Patents Stakeholder Experience (OPSE), Stakeholder Support Division (SSD) at (571)-272-4200.

APPENDIX C

INVENTOR(s) (Please see PATENT CENTER site https://patentcenter.uspto.gov for additional inventors):

THOMAS L. DISTEFANO III, BOCA RATON, FL;

APPLICANT(s) (Please see PATENT CENTER site https://patentcenter.uspto.gov for additional applicants):

PT 259, LLC, Boca Raton, FL;

The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation, and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage and facilitate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

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APPENDIX D

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.
13/946,461	07/19/2013	THOMAS L. DISTEFANO III	8201-0013	9140

55246 7590 01/19/2021

Cuenot, Forsythe & Kim
5425 Park Central Court
Suite 111
Naples, FL 34109

EXAMINER	
KOLOSOWSKI-GAGER, KATHERINE	

ART UNIT	PAPER NUMBER
3622	

NOTIFICATION DATE	DELIVERY MODE
01/19/2021	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):

kevin.cuenot@iplawpro.com
ptomail@iplawpro.com
terry.forsythe@iplawpro.com

PTOL-90A (Rev. 04/07)

APPENDIX D

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR/ PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
13/946,461	07/19/2013	DISTEFANO, THOMAS L.	8201-0013

		EXAMINER	
Cuenot, Forsythe & Kim **5425 Park Central Court Suite 111** **Naples, FL 34109**		KATHERINE KOLOSOWSKI-GAGER	
		ART UNIT	**PAPER**
		3622	20210107

DATE MAILED: _____

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

Commissioner for Patents

See attached	
/KATHERINE KOLOSOWSKI-GAGER/ Primary Examiner, Art Unit 3622	

PTO-90C (Rev.04-03)

APPENDIX D

Notice of Pre-AIA or AIA Status

The present application is being examined under the pre-AIA first to invent provisions.

Notice of Non-Responsive Amendment

The amendment filed on 25 NOV 2020 is not fully responsive to the prior Office Action (Non-Final Rejection dated 25 AUG 2020) because of the following omission(s) or matter(s)

Applicant has canceled elected claims 22-26, 28-36, 38-46, and has added claims 47-66. As such, Applicant has canceled all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03) and has not been entered. The remaining claims are not readable on the elected invention because:

Newly submitted claims 47, 57, recite a method performed within and by a server system configured to modify and serve web pages (claim 47), as well as a server system configured to modify and serve web pages comprising a hardware database system and a hardware system configured to perform (claim 57), receiving from a first client device associated with a first user and via graphical user interface provided by the system, information indicating a selection of a web asset to be used in a first website associated with the first user, receiving from the first client device and via the graphical user interface, a first identification associated with a second website to create a first hyperlink from the first website to the second website; storing within a computer database system of the server system, first information indicating that the first identification was received; receiving, from a second client device associated with the second website, a second identification associated with the first website to create a second hyperlink from the second website to the first website; storing, within the computer database system, second information indicating that the second identification was received; modifying the first website to include the web asset; modifying the first website to include the first hyperlink to the second website based upon both the first information indicating that the first identification was received and the second information indicating that the second identification was received; and modifying the second website to include the second hyperlink to the first website based upon both the first information indicating that the first identification was received and the second information indicating that the second identification was received; serving, in response to a web page request from a third client device, a first web page of the first website to the third client device, wherein

APPENDIX D

the second website is associated with a second user, the graphical user interface is configured to display identifiers respectively associated with a plurality of previously-created websites that were previously-created by other users of the server system, the first identification is based upon a selection associated with the second website, and the selection associated with the second website is performed using the graphic user interface and is from the plurality of the previously-created websites displayed within the graphical user interface.

These claims and related dependents are separate and distinct from the previously elected claim set of claims 22-26, 28-36, 38-46, because the previously elected claims recite a different invention.

Previously elected claim 22 recites: A method, within and by a computer hardware system that is configured to serve a first web page associated with a first user and a second web page associated with a second user, comprising: establishing a reciprocal arrangement between the first web page and the second web page based upon both the first and second users opting to participate in the reciprocal arrangement; including, within the second web page and based upon the reciprocal arrangement, a second link to the first web page and associated with the first entity; and including, within the first web page and based upon the reciprocal arrangement, a first link to the second web page and associated with the second entity.

Previously elected claim 32 recites: A webpage implementation server system that is configured to serve a first web page associated with a first user and a second web page associated with a second user, comprising: a database system storing information associated with the first and second web pages; a computer hardware system configured to perform: storing first input received from the first user into the database system: storing second input received from the second user into the database system: establishing a reciprocal arrangement between the first web page and the second web page based upon both the first and second users opting to participate in the reciprocal arrangement; generating, using the first input received from the first user and the reciprocal arrangement, the first web page: and generating, using the second input received from the second and the reciprocal arrangement, the second web page, wherein the second web page includes based on the reciprocal arrangement, a second link to the first web page and the first web page includes based upon the reciprocal arrangement, a first link to the second web page.

APPENDIX D

including, within the second web page includes, [[and]] based upon the reciprocal arrangement, a second link to the first web page and associated with the first entity; and including, within the first web page includes, [[and]] based upon the reciprocal arrangement, a first link to the second web page and associated with the second entity.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-66 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a shortened statutory period of TWO (2) MONTHS from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE but in no case can any extension carry the date for reply to this letter beyond the maximum period of SIX MONTHS set by statute (35 U.S.C. 133).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHERINE KOLOSOWSKI-GAGER whose telephone number is (571)270-5920. The examiner can normally be reached on Monday - Friday.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at http://www.uspto.gov/interviewpractice.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter H. Choi can be reached on (469)295-9171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

APPENDIX D

For more information about the PAIR system, see https://ppair-my.uspto.gov/pair/PrivatePair. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHERINE KOLOSOWSKI-GAGER/
Primary Examiner, Art Unit 3622

APPENDIX E

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/946,461	07/19/2013	THOMAS L. DISTEFANO III	8201-0013	9140

55246 7590 09/15/2021

Cuenot, Forsythe & Kim
5425 Park Central Court
Suite 111
Naples, FL 34109

EXAMINER	
KOLOSOWSKI-GAGER, KATHERINE	

ART UNIT	PAPER NUMBER
3622	

NOTIFICATION DATE	DELIVERY MODE
09/15/2021	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):

kevin.cuenot@iplawpro.com
ptomail@iplawpro.com
terry.forsythe@iplawpro.com

PTOL-90A (Rev. 01/07)

APPENDIX E

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cuenot, Forsythe & Kim
5425 Park Central Court
Suite 111
Naples FL 34109

In re Application of	:	
Thomas L. Distefano, III	:	DECISION ON PETITION
Application No. 13/946,461	:	UNDER 37 CFR 1.144
Filed: July 19 2013	:	
For: RECIPROCAL INSERTION OF	:	
IDENTIFICATION ELEMENTS FOR WEB PAGES	:	

This is a decision on the petition filed June 4, 2021 under 37 CFR § 1.144 requesting withdrawal of the restriction requirement set forth in the Notice to the Applicant Regarding a Non-Compliant or Non-Responsive Amendment mailed on May 25, 2021.

The petition is **GRANTED**.

A review of the relevant portion of the record shows that:

- On October 31, 2017, the Applicant filed an Appeal Brief. The Claims Appendix in the Appeal Brief presents claims 22-26, 28-36, and 38-41, which are presentative of the originally-examined invention.
- The Examiner reopened prosecution by issuing a Non-Final office action on December 21, 2017
- On April 20, 2018, the Applicant filed a response with amendments and arguments and added new claims 42-46.
- On August 10, 2018, the Examiner issued a Final office action, rejecting claims 22-26, 28-36 and 38-46.
- On July 5, 2019, the Applicant filed an Appeal Brief. The Claims Appendix in the Appeal Brief presents claims 22-26, 28-36, and 38-46.
- On October 18, 2019, the Examiner issued an Examiner's Answer to Appeal Brief with an updated 101 rejection incorporating the 2019 Revised Patent Subject Matter.

APPENDIX E

- On December 18, 2019, the Applicant filed a Petition under 37 CFR 1.181 requesting that the Examiner's Answer designate a new grounds of rejection.
- On June 2, 2020, the Petition was granted.
- On August 25, 2020, the Examiner reopened prosecution by issuing a Non-Final office action with an updated 101 rejection and a 102(a)/(e) on claims 22-26, 28-36, and 38-46.
- On November 25, 2020, the Applicant filed a response cancelling claims 1-46 and adding claims 47-66.
- On January 19, 2021, the Examiner issued a Notice to the Applicant Regarding a Non-Compliant or Non-Responsive Amendment explaining that the Applicant had cancelled all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention and that the remaining claims were not readable on the elected invention because claims 47 and 57 and related dependents were separate and distinct form the previously elected claim set of claims 22-26, 28-36, and 38-46 because the previously elected claims recite a completely different invention.
- On January 19, 2021, the Applicant filed a request for reconsideration that stated that the Examiner had not set forth any reasoning for invoking the principle of Election by Original Presentation and that the Examiner presented unsupported and conclusory assertions.
- On May 25, 2021, the Examiner issued another Notice to the Applicant Regarding a Non-Compliant or Non-Responsive Amendment restricting by original presentation claims 47-66.
- On June 4, 2021, the Applicant filed a Petition to reinstate claims 47-66.

DISCUSSION AND ANALYSIS

MPEP § 803 states:

803 Restriction - When Proper [R-08.2017]

Under the statute, the claims of an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 802.01, § 806.06, and § 808.01) or distinct (MPEP § 806.05 - § 806.05(j)).

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

I. CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS

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There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and

(B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

II. GUIDELINES

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases.

Where plural inventions are capable of being viewed as related in two ways, both applicable criteria for distinctness must be demonstrated to support a restriction requirement.

If there is an express admission that the claimed inventions would have been obvious over each other within the meaning of 35 U.S.C. 103, restriction should not be required. In re Lee, 199 USPQ 108 (Comm'r Pat. 1978).

For purposes of the initial requirement, a serious burden on the examiner may be prima facie shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02. That prima facie showing may be rebutted by appropriate showings or evidence by the applicant. Insofar as the criteria for restriction practice relating to Markush claims is concerned, the criteria is set forth in MPEP § 803.02. Insofar as the criteria for restriction or election practice relating to claims to genus-species, see MPEP § 806.04 - § 806.04(i) and § 808.01(a).

A review of the relevant record reveals that, in Applicant's response filed on January 19, 2021 and the Petition filed on June 4, 2021, the Applicant sets forth two main reasons with the restriction requirement.

Applicant states, "There are two over-arching errors in the Examiner's improper withdrawal of the claims 20-39 from prosecution. These are as follows:

(A) Failure to establish 'two or more independent and distinct inventions'; and

(B) Failure to establish a serious burden (Page 7, lines 3-6).

APPENDIX E

In order to determine whether or not the restriction requirement set forth in the notice of non-compliant or non-responsive letter dated January 19, 2021 is proper, claims 47-66 of the November 25, 2020 amendment will be compared to the claims of April 20, 2018.

The following chart compares claim language of the independent claims:

Claim 32 of April 20, 2018	Claim 47 of November 25, 2020
A webpage implementation ***server system*** that is ***configured to serve*** a ***first web page associated with a first user and a second web page associated with a second user***, comprising:	A method performed within and by a ***server system configured to*** modify and ***serve web pages***, comprising:
	receiving, from a first client device associated with ***a first user*** and via a graphical user interface provided by the server system, ***information indicating a selection of a web asset to be used in a first website associated with the first user***;
	receiving, from the first client device and via the graphical user interface, ***a first identification associated with a second website to create a first hyperlink from the first website to the second website***;
a database system storing information associated with the first and second web pages;	***storing, within a computer database system of the server system, first information indicating that the first identification was received***;
a computer hardware system configured to perform:	
storing first input received from the first user into the database system;	receiving, from a second client device associated with the second website, ***a second identification associated with the first website to create a second hyperlink from the second website to the first website***;
storing second input received from the second user into the database system;	
	storing, within the computer database system, second information indicating that the second identification was received;
establishing a reciprocal arrangement between the first web page and the second web page based upon both the	

first and second users opting to participate in the reciprocal arrangement; ***generating, using the first input received from the first user*** and the reciprocal arrangement, ***the first web page***; and ***generating, using the second input received from the second*** and the reciprocal arrangement, ***the second web page, wherein the second web page includes***, based upon the reciprocal arrangement, ***a second link to the first web page***; and ***the first web page includes***, based upon the reciprocal arrangement, ***a first link to the second web page***.	modifying the first website to include the web asset; modifying the first website to include the first hyperlink to the second website based upon both the first information indicating that the first identification was received and the second information indicating that the second identification was received; and ***modifying the second website to include the second hyperlink to the first website based upon both the first information indicating that the first identification was received and the second information indicating that the second identification was received***; serving, in response to a web page request from a third client device, a first web page of the first website to the third client device, wherein the second website is associated with a second user, the graphical user interface is configured to display identifiers respectively associated with a plurality of previously-created websites that were previously-created by other users of the server system, the first identification is based upon a selection associated with the second website, and the selection associated with the second website is performed using the graphic user interface and is from the plurality of the previously-created websites displayed within the graphical user interface.

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A comparison between claim 32 and claim 47 reveals that claim 32 is fully encompassed by Claim 47. There is substantial overlap in scope between claims 32 and 47, where claim 32 is broader in scope than claim 47. Therefore, claims 32 and 47 are not patentably distinct from each other.

The step of "establishing a reciprocal arrangement between the first web page and the second web page based upon both the first and second users opting to participate in the reciprocal arrangement" recited in claim 32 is encompassed by claim 47 because claim 47 recites two separate client devices, "a first client device associated with a first user" and "a second client device associated with the second website". The first and second client devices establish a reciprocal arrangement between the first web page and the second web page based upon both the first and second users option to participate in reciprocal arrangement in order for the modification of the respective web pages as recited in the step in claim 47 of: "modifying the first website to include the first hyperlink to the second website based upon both the first information indicating that the first identification was received and the second information indicating that the second identification was received".

Therefore, in view of the comparison of the independent claims above, a review of the most recent pending claims reveals that the restriction requirement set forth in the non-compliant letter was improper since the claims have substantial overlap in claim scope. The withdrawal of claims 47-66 as being directed to a non-elected invention is improper.

On page 2 of the Notice to the Applicant Regarding a Non-Compliant or Non-Responsive Amendment (mailed on January 19, 2021), the Examiner set forth the rational for the restriction requirement as follows:

"Applicant has canceled elected claims 22-26, 28-36, 38-46, and has added claims 47-66. As such, Applicant has canceled all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03) and has not been entered. The remaining claims are not readable on the elected invention because:

Newly submitted claims 47, 57, recite a method performed within and by a server system configured to modify and serve web pages (claim 47), as well as a server system configured to modify and serve web pages comprising a hardware database system and a hardware system configured to perform (claim 57), receiving from a first client device associated with a first user and via graphical user interface provided by the system, information indicating a selection of a web asset to be used in a first website associated with the first user, receiving from the first client device and via the graphical user interface, a first identification associated with a second website to create a first hyperlink from the first website to the second website; storing with in a computer data base system of the server system, first information indicating that the first identification was received; receiving, from a second client device associated with the second website, a second identification associated with the first website to create a second

hyperlink from the second website to the first website; storing, within the computer data base system, second information indicating that the second identification was received; modifying the first website to include the web asset; modifying the first website to include the first hyperlink to the second website based upon both the first information indicating that the first identification was received and the second information indicating that the second identification was received; and modifying the second website to include the second hyper link to the first website based upon both the first information indicating that the first identification was received and the second information indicating that the second identification was received; serving, in response to a web page request from a third client device, a first web page of the first website to the third client device, wherein the second website is associated with a second user, the graphical user interface is configured to display identifiers respectively associated with a plurality of previously-created websites that were previously-created by other users of the server system, the first identification is based upon a selection associated with the second website, and the selection associated with the second website is performed using the graphic user interface and is from the plurality of the previously-created websites displayed within the graphical user interface.

These claims and related dependents are separate and distinct from the previously elected claim set of claims 22-26, 28-36, 38-46, because the previously elected claims recite a different invention.

Previously elected claim 22 recites: A method, within and by a computer hard ware system that is configured to serve a first web page associated with a first user and a second web page associated with a second user, comprising: establishing a reciprocal arrangement between the first web page and the second web page based upon both the first and second users opting to participate in the reciprocal arrangement; including, within the second web page and based upon the reciprocal arrangement, a second l ink to the first web page and associated with the first entity; and including, within the first web page and based upon the reciprocal arrangement, a first l ink to the second web page and associated with the second entity.

Previously elected claim 32 recites: A web page implementation server system that is configured to serve a first web page associated with a first user and a second web page associated with a second user, comprising: a data base system storing information associated with the first and second web pages; a computer hardware system configured to perform: storing first input received from the first user into the database system: storing second input received from the second user into the data base system: establishing a reciprocal arrangement between the first web page and the second web page based upon both the first and second users opting to participate in the reciprocal arrangement; genera ting, using the first input received from the first user and the reciprocal arrangement, the first web page: and generating, using the second input received from the second and the reciprocal arrangement, the second web page, wherein the second web page includes based on the reciprocal arrangement, a second l ink to the first web page and the first web page includes based upon the reciprocal arrangement, a first l ink to the second web page.

including, within the second web page includes, [[and]] based upon the reciprocal arrangement, a second link to the first web page and associated with the first entity; and including, with in the first web page includes, [[and]] based upon the reciprocal arrangement, a first l ink to the second web page and associated with the second entity."

In response to Applicant's traversal of the restriction requirement filed on January 19, 2021, the Examiner reproduced the same wording as the previous Notice (mailed on January 19, 2021), and quoted MPEP § 806 and added the following statements:

"Examiner respectfully submits that an entirely new and different search would be required in order to examine the claims as filed. In particular, Examiner would be required to execute a different field of search in that the entire claim has been cancelled and re-written, almost doubling the number of limitations and altering crucial orders of limitations in a manner that would require a completely new search."

In response to the Applicant's traversal of the restriction requirement filed on January 19, 2021, the Examiner also addressed Applicant's arguments with the following rebuttal (on pages 2-3 of the Notice to the Applicant Regarding a Non-Compliant or Non-Responsive Amendment mailed on May 25, 2021):

"In the interest of compact prosecution, Examiner notes receipt of Applicant's remarks as filed on 1/19/2021. Examiner finds the remarks un-persuasive and maintains that an election occurred on the part of the Applicant.

Applicant reproduces a portion of a petition decision on page 3,4; Examiner does not find this case to be particularly relevant as a petition has not been filed, nor is that particular case dispositive of prosecution in *this* particular Application. Examiner finds it somewhat unclear if Applicant is citing to the MPEP for the merits of this particular application, or a gain simply reproducing the opinion in an unrelated case. Applicant goes on to paraphrase claim l imitations - however, Examiner again maintains the position that the claims as currently filed are separate and independent from the prior set of claims, and a serious search burden would exist if these claims were to be examined. That the claims are vaguely existing in the same realm of technology does not excuse the search burden that would be presented to the user in the new set of claims. Applicant continues citing various portions of the MPEP regarding restriction - Examiner has cited to relevant portions above as well for Applicant's benefit."

After reviewing the non-compliant letters, the following is noted:

1. The Examiner asserted that "a serious search burden would exist if these claims were to be examined." However, no classification by class/subclass for each invention was identified by the Examiner. Therefore, the examiner has not set forth a

prima facie case that the claims are restrictable in accordance with MPEP 803 above.

2. The Examiner asserted, "These claims and related dependents are separate and distinct from the previously elected claim set of claims 22-26, 28-36, 38-46, because the previously elected claims recite a different invention." However, no reasoning or explanation as to why the new claims were "separate and distinct" were provided by the Examiner besides provided the claim language of cancelled independent claims 22 and 33, and new independent claims 47 and 57. In addition, the examiner has not indicated how the claims 22-26, 28-36 and 38-46 are to be grouped compared to claims 47-66. For example, the restriction did not indicate whether the claims are directed to subcombinations usable together or process and apparatus.

   Regarding determination of distinctness or independence of claimed inventions, MPEP § 806 explains:

   The general principles relating to distinctness or independence may be summarized as follows:

   (A) Where inventions are independent (i.e., no disclosed relation therebetween), restriction to one thereof is ordinarily proper, MPEP § 806.06.

   (B) Where inventions are related as disclosed but are distinct as claimed, restriction may be proper.

   (C) Where inventions are related as disclosed but are not distinct as claimed, restriction is never proper.

   (D) A reasonable number of species may be claimed when there is an allowable claim generic thereto. 37 CFR 1.141, MPEP § 806.04.

3. A comparison of claims 22-26, 28-36, and 38-46, as filed by Applicant on April 20, 2018 and examined by the Examiner in the Non-Final office action issued on January 25, 2020, with the newly-presented (currently non-elected) claims reveals that the core concepts recited in claims 22-26, 28-36, and 38-46, as filed by Applicant on April 20, 2018, continue to be presented in the newly-presented claims. The newly-presented claims are not seen to be completely independent of claims 22-26, 28-36, and 38-46, as filed by Applicant on April 20, 2018. The Examiner has not explained how the identified inventions may be related, but distinct in relation to each other. The Examiner's statement that "[t]hese claims and related dependents are separate and distinct from the previously elected claim set of claims 22-26, 28-36, 38-46, because the previously elected claims recite a different invention" is alone insufficient to establish that the two inventions are necessarily independent and/or

distinct from each other. Both identified inventions modify and serve a first webpage/website and a second webpage/website to include a link. Both identified inventions include a web asset in a webpage/website. Both identified inventions have varying scope and seem reasonably related.

4. The Examiner has not properly made a prima facie case of restriction. The Examiner has not set forth that the invention presented in new claims 47-66 is independent or distinct from claims 22-26, 28-36, and 38-46, as filed by Applicant on April 20, 2018. The Examiner has not provided any specific evidence in the restriction requirement to demonstrate how examination of the newly-presented claims poses a serious burden to the Examiner.

Conclusion

In summary, the restriction requirement set forth May 25, 2021 is improper and herein withdrawn. Accordingly, claims 47-66 are rejoined for consideration. The requested withdrawal of the restriction requirement will be granted. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3622 for consideration of the amendment filed on 11/25/2020. Any questions regarding this communication should be directed to Marc Jimenez, Quality Assurance Specialist, at (571) 272-4530.

The Petition is **GRANTED**.

/TARIQ R HAFIZ/

Tariq Hafiz
Technology Center 3600
(571) 272-6729

/MJ/ 8/9/21

APPENDIX F

Alaine Allison

From: Kolosowski, Katherine <Katherine.Kolosowski@uspto.gov>
Sent: Tuesday, November 16, 2021 9:13 PM
To: Alaine Allison
Cc: Scott Paul; Alaine Allison
Subject: RE: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST

Alaine -

I just realized this isn't currently "on" my active docket, meaning I'm unable to generate an action/interview summary. Can we table this until it is moved to my active docket?

-KKG
x05920

From: Alaine Allison <alaine.allison@iplawpro.com>
Sent: Tuesday, November 16, 2021 3:10 PM
To: Kolosowski, Katherine <Katherine.Kolosowski@uspto.gov>
Cc: Scott Paul <scott.paul@iplawpro.com>; alaine.allison@iplawpro.com
Subject: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST

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Thank you for returning my call this morning regarding our request to schedule an interview for this application.

Attached is the Applicant's Interview Request Form which provides detail as to the items Mr. Paul would like to discuss during the Interview.

Please call me at 561-801-7700, ext. 1209 if you are agreeable to scheduling the interview. Thank you!

CUENOT, FORSYTHE & KIM
INTELLECTUAL PROPERTY LAW

For the Firm,
Alaine

Alaine Allison, Legal Assistant
20283 State Road 7, Ste. 300
Boca Raton, FL 33498
Tel: (561) 801-7700, ext. 1209
Fax: (561) 423-9297
alaine.allison@iplawpro.com

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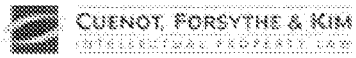
APPENDIX G

Alaine Allison

From: Alaine Allison
Sent: Thursday, March 17, 2022 2:39 PM
To: Scott Paul
Subject: FW: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST
Attachments: US_Appln_13946461_ApplicantInterviewRequestform_11-16-2021.pdf.pdf

Examiner Kolosowski just called to let us know the application was back up on her docket, and she is ready to re-schedule the interview. She asked we send an agenda and her earliest to schedule the call would be next Wednesday. Her No. 571-270-5920

I attached the Interview Form we sent last November. Let me know what day looks best or if you just want to email her. Thanks!



For the Firm,

Alaine

Alaine Allison, Legal Assistant
20283 State Road 7, Ste. 300
Boca Raton, FL 33498
Tel: (561) 801-7700, ext. 1209
Fax: (561) 423-9297
alaine.allison@iplawpro.com

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From: Scott Paul <scott.paul@iplawpro.com>
Sent: Tuesday, November 16, 2021 9:48 PM
To: Kolosowski, Katherine <Katherine.Kolosowski@uspto.gov>; Alaine Allison <alaine.allison@iplawpro.com>
Cc: Alaine Allison <alaine.allison@iplawpro.com>
Subject: RE: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST

That is fine. Please let us know when it is on your active docket.

Thank you,
Scott

From: Kolosowski, Katherine [mailto:Katherine.Kolosowski@uspto.gov]
Sent: Tuesday, November 16, 2021 9:13 PM
To: Alaine Allison <alaine.allison@iplawpro.com>

Cc: Scott Paul <scott.paul@iplawpro.com>; Alaine Allison <alaine.allison@iplawpro.com>
Subject: RE: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST

Alaine -

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x05920

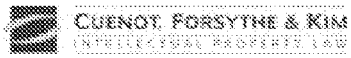
From: Alaine Allison <alaine.allison@iplawpro.com>
Sent: Tuesday, November 16, 2021 3:10 PM
To: Kolosowski, Katherine <Katherine.Kolosowski@uspto.gov>
Cc: Scott Paul <scott.paul@iplawpro.com>; alaine.allison@iplawpro.com
Subject: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST

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For the Firm,

Alaine

Alaine Allison, Legal Assistant
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Tel: (561) 801-7700, ext. 1209
Fax: (561) 423-9297
alaine.allison@iplawpro.com

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APPENDIX H

Alaine Allison

From: Kolosowski, Katherine <Katherine.Kolosowski@uspto.gov>
Sent: Friday, March 25, 2022 9:20 AM
To: Alaine Allison
Subject: RE: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 / Interview Request Date of March 25, 2022

Hi Alaine –

I apologize, I just got the voicemail from the other day – did you send a confirmation email? Unfortunately today no longer works to hold the interview. How is availability for next week?

From: Alaine Allison <alaine.allison@iplawpro.com>
Sent: Monday, March 21, 2022 4:23 PM
To: Kolosowski, Katherine <Katherine.Kolosowski@uspto.gov>
Cc: Scott Paul <scott.paul@iplawpro.com>; 'stickyw9@aol.com' <stickyw9@aol.com>
Subject: RE: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 / Interview Request Date of March 25, 2022

CAUTION: This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

Good afternoon Examiner:

Attached is a copy of the Supplemental Amendment filed today in the above-referenced application. The Amendment is indicative of the agenda Applicant's representative would like to discuss with you. We look forward to your return call with a convenient time for the interview upon your return to the office.

CUENOT, FORSYTHE & KIM
INTELLECTUAL PROPERTY LAW

For the Firm,

Alaine

Alaine Allison, Legal Assistant
20283 State Road 7, Ste. 300
Boca Raton, FL 33498
Tel: (561) 801-7700, ext. 1209
Fax: (561) 423-9297
alaine.allison@iplawpro.com

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APPENDIX H

From: Alaine Allison
Sent: Thursday, March 17, 2022 4:05 PM
To: 'katherine.kolosowski-gager@uspto.gov' <katherine.kolosowski-gager@uspto.gov>
Cc: Scott Paul <scott.paul@iplawpro.com>; stickyw9@aol.com
Subject: FW: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 / Interview Request Date of March 25, 2022

Examiner Kolosowski,

Thank you for your telephone call earlier today. I have attached the Interview Request Form originally sent last November with supporting documents which include the following:

1. Proposed New Claims for Appln 13/946,461;
2. Original preliminary amendment filed July 19, 2013 for Appln. 13/946,461;
3. Currently pending Response to Office Action filed October 22, 2020 for Appln. 10/868,312 which includes:
    a. Notice of Allowance Issued Jan. 22, 2021 in in Appln.10/868,312;
4. Terminal Disclaimer filed July 19, 2013 in Appln. 13/946,461;
5. Claims in Disclaimed Patents in Terminal Disclaimer:
    a. US Patents 8,423,399;
    b. US Patent 8,442,860;
    c. US Patent 8,417,567;
    d. US Patent 8,335,713;
    e. US Patent 7,996,259; and
    f. US Patent RE45,971

Mr. Paul is available next Friday, March 25, 2022. Please provide your availability. Thank you and have a great rest of your week!

the current status of co-pending U.S. Application 13/946,489

Let me know what day looks best or if you just want to email her. Thanks!

CUENOT, FORSYTHE & KIM
INTELLECTUAL PROPERTY LAW

For the Firm,

Alaine

Alaine Allison, Legal Assistant
20283 State Road 7, Ste. 300
Boca Raton, FL 33498
Tel: (561) 801-7700, ext. 1209
Fax: (561) 423-9297
alaine.allison@iplawpro.com

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APPENDIX H

From: Scott Paul <scott.paul@iplawpro.com>
Sent: Tuesday, November 16, 2021 9:48 PM
To: Kolosowski, Katherine <Katherine.Kolosowski@uspto.gov>; Alaine Allison <alaine.allison@iplawpro.com>
Cc: Alaine Allison <alaine.allison@iplawpro.com>
Subject: RE: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST

That is fine. Please let us know when it is on your active docket.

Thank you,
Scott

From: Kolosowski, Katherine [mailto:Katherine.Kolosowski@uspto.gov]
Sent: Tuesday, November 16, 2021 9:13 PM
To: Alaine Allison <alaine.allison@iplawpro.com>
Cc: Scott Paul <scott.paul@iplawpro.com>; Alaine Allison <alaine.allison@iplawpro.com>
Subject: RE: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST

Alaine -

I just realized this isn't currently "on" my active docket, meaning I'm unable to generate an action/interview summary. Can we table this until it is moved to my active docket?

-KKG
x05920

From: Alaine Allison <alaine.allison@iplawpro.com>
Sent: Tuesday, November 16, 2021 3:10 PM
To: Kolosowski, Katherine <Katherine.Kolosowski@uspto.gov>
Cc: Scott Paul <scott.paul@iplawpro.com>; alaine.allison@iplawpro.com
Subject: US Appln. 13/946, 461 Application Interview Agenda / Our Ref. 8201-0013 - Interview 11-23-2021 at 10:30 am EST

CAUTION: This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

Thank you for returning my call this morning regarding our request to schedule an interview for this application.

Attached is the Applicant's Interview Request Form which provides detail as to the items Mr. Paul would like to discuss during the Interview.

Please call me at 561-801-7700, ext. 1209 if you are agreeable to scheduling the interview. Thank you!

CUENOT, FORSYTHE & KIM

APPENDIX H

For the Firm,

Alaine

Alaine Allison, Legal Assistant
20283 State Road 7, Ste. 300
Boca Raton, FL 33498
Tel: (561) 801-7700, ext. 1209
Fax: (561) 423-9297
alaine.allison@iplawpro.com

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Electronic Patent Application Fee Transmittal

Application Number:	13946461
Filing Date:	19-Jul-2013
Title of Invention:	SERVER SYSTEM CONFIGURED TO PROVIDE GRAPHICAL USER INTERFACE FOR MODIFYING WEB PAGES TO INCLUDE HYPERLINKS
First Named Inventor/Applicant Name:	THOMAS L. DISTEFANO
Filer:	Scott David Paul/Alaine Allison
Attorney Docket Number:	8201-0013

Filed as Small Entity

Filing Fees for Utility under 35 USC 111(a)

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
APPLICATION FOR PATENT TERM ADJUSTMENT	2455	1	210	210
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension-of-Time:				
Miscellaneous:				
		Total in USD ($)		**210**

Electronic Acknowledgement Receipt	
EFS ID:	48607655
Application Number:	13946461
International Application Number:	
Confirmation Number:	9140
Title of Invention:	SERVER SYSTEM CONFIGURED TO PROVIDE GRAPHICAL USER INTERFACE FOR MODIFYING WEB PAGES TO INCLUDE HYPERLINKS
First Named Inventor/Applicant Name:	THOMAS L. DISTEFANO
Customer Number:	55246
Filer:	Scott David Paul/Alaine Allison
Filer Authorized By:	Scott David Paul
Attorney Docket Number:	8201-0013
Receipt Date:	19-SEP-2023
Filing Date:	19-JUL-2013
Time Stamp:	14:16:05
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	DA
Payment was successfully received in RAM	$210
RAM confirmation Number	E20239IE16416917
Deposit Account	503611
Authorized User	Alaine Allison
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: 37 CFR 1.20 (Post Issuance fees) 37 CFR 1.21 (Miscellaneous fees and charges)	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Patent Term Adjustment Petition	8201-0013_1_705_Petition_09-19-2023.pdf	3408598 bfae0beaf5c7a27430d1e713882a32ef6ec7df60	no	54
Warnings:					
Information:					
2	Fee Worksheet (SB06)	fee-info.pdf	38084 21a2b7c930c7c9b00e319b6af8398dd358406aa8	no	2
Warnings:					
Information:					
		Total Files Size (in bytes):	3446682		

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.
National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.
New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

TO: terry.forsythe@iplawpro.com,kevin.cuenot@iplawpro.com,ptomail@iplawpro.com
FROM: noreply@uspto.gov
CC: patentcenter_eofficeaction@uspto.gov
SUBJECT: USPTO: Patent Electronic System - eGrant Notification for Customer Number 55246

Tue Sep 19 15:53:35 EDT 2023

Dear Patent Center Customer:

Correspondence Address:

Cuenot, Forsythe &Kim
5425 Park Central Court
Suite 111
Naples,FLORIDA,34109
UNITED STATES

This is a courtesy notification regarding the following USPTO patent application(s) associated with your Customer Number, 55246, that have new eGrant(s). The eGrant is now available for viewing in Patent Center.

The official date of the eGrant notification will be indicated on the form (e.g., PTOL-90) accompanying the correspondence.

Disclaimer:
The list of documents shown below are provided as a courtesy and is not part of the official file wrapper. The content of the images shown in the Image File Wrapper is the official record.

Application	Patent	Document	Mailroom Date	Attorney Docket No.
13946461	11763316	EGRANT.NTF	09/19/2023	8201-0013

To examine your eGrant online, please access Patent Center then search using the listed application or patent number. To download, click on the eGrant link on the left-hand menu or select the "Download eGrant" link on the Application data page.

If you have any questions, please contact the Patent Electronic Business Center (EBC) at ebc@uspto.gov or 866-217-9197 Monday – Friday, 6 a.m. to midnight ET.

Please do not reply to this email as it was sent from an unmonitored mailbox.

Sincerely,

The Patent Center Team

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.
13/946,461	07/19/2013	THOMAS L. DISTEFANO III	8201-0013	9140

55246 7590 03/18/2024

Cuenot, Forsythe & Kim
5425 Park Central Court
Suite 111
Naples, FL 34109

EXAMINER	
KOLOSOWSKI GAGER, KATHERINE	

ART UNIT	PAPER NUMBER
3622	

NOTIFICATION DATE	DELIVERY MODE
03/18/2024	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):

kevin.cuenot@iplawpro.com
ptomail@iplawpro.com
terry.forsythe@iplawpro.com

TikTok Inc. EX1002
TikTok Inc. v. Distefano Website Innovations, LLC
IPR2025-01061
Page 1661 of 1793

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 11,763,316	: PATENT TERM ADJUSTMENT/
Issued: September 19, 2023	: NOTICE OF INTENT TO ISSUE
Application No. 13/946,461	: CERTIFICATE OF CORRECTION
Filed: 19 Jul 2013	:
For: SERVER SYSTEM CONFIGURED	:
TO PROVIDE GRAPHICAL USER	:
INTERFACE FOR MODIFYING WEB	:
PAGES TO INCLUDE HYPERLINKS	

An application for patent term adjustment under 37 CFR 1.705(b) was filed September 19, 2023, requesting that the patent term adjustment be increased from 1861 days to 3009 days.

This redetermination of patent term adjustment is NOT the Director's decision on the applicant's request for reconsideration for purposes of seeking judicial review under 35 U.S.C. § 154(b)(4).
Relevant Procedural History

On September 19, 2023, this patent issued with a patent term adjustment determination of 1861 days. On September 19, 2023, patentee filed an application for patent term adjustment seeking an adjustment of the determination to 3009 days in view of applicant delay miscalculations. Specifically, patentee contests the reduction of 668 days, 55 days, and 486 days.

The redetermination of patent term adjustment calculation indicates that the patent is entitled to an overall adjustment of 2352 days.

Applicant and the Office are not in full agreement with respect to the "A" delay under 35 U.S.C. § 154(b)(1)(A).

Patentee and the Office are in agreement with respect to the patent term adjustment of 552 days assessed pursuant to 37 CFR 1.703(a)(1) and the adjustment of 40 days assessed pursuant to 37 CFR 1.702(a)(2).

However, further review of the record reflects that the patent is entitled to an adjustment of 749 pursuant to 37 CFR 1.703(a)(2) with respect to the mailing of the Notice of Allowance. The adjustment commenced May 20, 2021, the day after the date is four months after the date that the reply was filed January 19, 2021, and ended June 7, 2023, the date that the Notice of Allowance was mailed.

Accordingly, the "A" delay totals 1,341 days (552 days + 40 days + 749 days).

Patentee and the Office are in agreement with respect to the "B" delay under 35 U.S.C. § 154(b)(1)(B)(i) totaling 2,618 days. The adjustment commenced July 20, 2016 and ended September 19, 2023.

Patentee and the Office are in agreement with respect to the zero days of "C" delay under 35 U.S.C. § 154(b)(1)(C).

Patentee and the Office are not in full agreement with respect to the amount of overlap under 35 U.S.C. 154(b)(2)(A). The period of overlapping days totals 789 days as the 40 day period of "A" delay from November 25, 2016 to December 29, 2017 and the 749 day period of "A" delay from May 20, 2021 to June 7, 2023 overlaps with the 2,618 day period of "B" delay that commenced July 20, 2015 and ended September 19, 2023.

Patentee and the Office are not in full agreement with the applicant delay assessed pursuant to 37 CFR 1.704.

Patentee and the Office are in agreement that the patent term adjustment is properly reduced 61 days pursuant to 37 CFR 1.704(b), eight days pursuant to 37 CFR 1.704(c)(8), and 31 days pursuant to 37 CFR 1.704(b).

Patentee and the Office are in agreement that the patent term adjustment was errantly reduced 668 days in connection with the appeal brief filed July 5, 2019. However, the correct reduction is 56 days, not 61 days as argued by patentee. The reduction under 37 CFR 1.704(c)(11) commenced May 14, 2019 and ended July 5, 2019.

Patentee and the Office are in agreement that the patent term adjustment was errantly reduced 55 days in connection with the reply filed January 19, 2021. The record has been reviewed and it has been determined that the reply filed January 19, 2021 was not filed under circumstances that warrant entry of a period of reduction for applicant delay. Accordingly, the period of reduction of 55 days has been restored.

Patentee and the Office are not in agreement with respect to the patent term reduction of 486 days assessed pursuant to 37 CFR 1.704(c)(8) in connection with the supplement reply filed May 20, 2022. The record does not reflect that the supplemental reply was expressly requested by the Examiner. The reply consisted of an amendment to the claims. Patentee argues that "[l]ike in Supernus, the record is silent as to what Applicant could have reasonably done to conclude prosecution during the 486 day time period."

Patentee's arguments have been carefully considered, but the Office is not persuaded that the circumstances surrounding the submission of the supplemental reply was akin to the facts set forth in Supernus Pharms, Inc. v Iancu, 913 F 3d 1351 (Fed. Cir. 2019) as there is action that applicant could have taken in lieu of submission of a supplemental reply amending the claims. It

is noted that also filed on May 20, 2022 was a petition under 37 CFR 1.182 to withdraw terminal disclaimers. This petition was dismissed November 23, 2022 and the renewed petition filed December 13, 2022 was granted April 10, 2023. Absent the favorable consideration of the petition under 37 CFR 1.182, the supplemental reply would not have been subject to favorable consideration by the examiner. Insofar as what action applicant could have taken in lieu of submitting the supplemental reply amending the claims, applicant could have awaited a favorable decision on the petition under 37 CFR 1.182 and/or awaited the Office's response to reply filed January 19, 2022 prior to submission of the amended the claims.

Further, the patent term adjustment remains subject to the following additional reductions for applicant delay:

- 30 days pursuant to 37 CFR 1.704(b) in connection with the reply filed April 20, 2018. The reduction commenced March 22, 2018 and ended April 20, 2018.
- 93 days pursuant to 37 CFR 1.704(b) in connection with the reply filed February 11, 2019. The reduction commenced November 11, 2018 and ended February 11,2019.
- 53 days pursuant to 37 CFR 1.704(c)(11) in connection with the appeal brief filed July 5, 2019. The reduction commenced May 14, 0219 and ended July 5, 2019.

Accordingly, the patent term adjustment is subject to a total reduction of 818 days due to applicant delays (61 days + 8 days + 31 days + 56 days + 30 days + 93 days + 53 days).

Overall PTA Calculation

Formula:

"A" delay + "B" delay + "C" delay - Overlap - applicant delay = X

USPTO's Calculation:

1341 + 2618 + 0 – 789 – 818 = 2352

Patentee's Calculation

592 + 2618 + 0 – 40 – 161 = 3009

Conclusion

Patentee is entitled to PTA of 2352 days. Using the formula "A" delay + "B" delay + "C" delay - overlap - applicant delay = X, the amount of PTA is calculated as follows: 1341 + 2618 + 0 – 789 – 818 = 2352 days.

Patentee has two (2) months from the date of the Office's redetermination of patent term adjustment to request reconsideration of the patent term adjustment if patentee continues to

disagree with this determination (no petition fee). This two-month period is extendible under 37 CFR 1.136(a). The new/renewed request for reconsideration may be filed without any additional fee. However, patentee who responds more than two months after the mail date of the redetermination is required to pay the extension of time fee. After the period of time to respond has expired, the Office will *sua sponte* issue a certificate of correction adjusting the PTA to 2352 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Adviser
Office of Petitions

Enclosure: Draft Certificate of Correction
Copy of PTA Printout

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 11,763,316

DATED : September 19, 2023

INVENTOR(S) : Distefano, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1861 days

Delete the phrase "by 1861 days" and insert – by 2352 days--

PTA calculations for application: 13946461

Application filing date: 07/19/2013
Issue date of patent: 09/19/2023
A Delays: 592
B Delays: 2618
C Delays: 0

OverLapping days between (A and B) or (A and C): 40
Non-overlapping USPTO delays: 3170
PTO manual adjustment: 491
Applicant delay(APPL): 1309
Total PTA(days): 2352

File Contents History

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPI	Patent action number
234	03/15/2024	NA	P028	Adjustment of PTA Calculation by PTO		53	0
233	03/15/2024	NA	P028	Adjustment of PTA Calculation by PTO		93	0
232	03/15/2024	NA	P028	Adjustment of PTA Calculation by PTO		30	0
231	03/15/2024	NA	P028	Adjustment of PTA Calculation by PTO	55		0
230	03/15/2024	NA	P028	Adjustment of PTA Calculation by PTO		56	0
229	03/15/2024	NA	P028	Adjustment of PTA Calculation by PTO	668		0
220.5	09/19/2023	07/19/2016	PTA36M	PTA 36 Months	2618		0.5
220	09/19/2023	NA	PTAC	Patent Issue Date Used in PTA Calculation			0
219	08/05/2023	NA	EFDC	Export to Final Data Capture			0
218	08/04/2023	NA	D1935	Dispatch to FDC			0
217	08/04/2023	NA	PILS	Application Is Considered Ready for Issue			0
216	08/02/2023	NA	N084	Issue Fee Payment Verified			0
215	08/02/2023	NA	IFEE	Issue Fee Payment Received			0
214	06/14/2023	NA	FIDC	Finished Initial Data Capture			0
213	06/06/2023	NA	EIDC	Export to Initial Data Capture			0
212	06/09/2023	NA	ELC_RVW	Electronic Review			0
211	06/09/2023	NA	EML_NTR	Email Notification			0
210	06/09/2023	NA	FLRCPT.R	Filing Receipt - Replacement			0
209	06/07/2023	NA	ELC_RVW	Electronic Review			0
208	06/07/2023	NA	ELC_RVW	Electronic Review			0
207	06/07/2023	NA	EML_NTR	Email Notification			0
206	06/07/2023	NA	MN/=.	Mail Notice of Allowance			0
205	06/04/2023	NA	OAR	Office Action Review			0

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPl	Patent action number
204	06/04/2023	NA	OAR	Office Action Review			0
203	06/04/2023	NA	IREV	Issue Revision Completed			0
202	06/04/2023	NA	DVER	Document Verification			0
201	06/04/2023	NA	N/=.	Notice of Allowance Data Verification Completed			0
200	05/25/2023	NA	EX.R	Reasons for Allowance			0
199	05/25/2023	NA	CNTA	Allowability Notice			0
197	05/16/2023	NA	FWDX	Date Forwarded to Examiner			0
196	12/13/2022	NA	W/AC	Withdrawing/Vacating Office Action Letter			0
193	04/13/2023	NA	ELC_RVW	Electronic Review			0
192	04/13/2023	NA	EML_NTF	Email Notification			0
191	04/13/2023	NA	MOPPT	Mail O.P. Petition Decision			0
190	04/10/2023	NA	OAR	Office Action Review			0
189	04/11/2023	NA	MPTGR	Mail-Petition Decision - Granted			0
188	04/10/2023	NA	PTGR	Petition Decision - Granted			0
187	04/08/2023	NA	OPPT	O.P. Petition Decision			0
186	12/13/2022	NA	PET.	Petition Entered			0
185	12/13/2022	NA	ELC_RVW	Electronic Review			0
184	12/13/2022	NA	EML_NTF	Email Notification			0
183	12/13/2022	NA	MCTMS	Mail Miscellaneous Communication to Applicant			0
182	12/07/2022	NA	CTMS	Miscellaneous Action with SSP			0
181	11/30/2022	NA	ELC_RVW	Electronic Review			0
180	11/30/2022	NA	EML_NTF	Email Notification			0
179	11/30/2022	NA	MOPPT	Mail O.P. Petition Decision			0
178	11/23/2022	NA	OAR	Office Action Review			0
177	11/25/2022	NA	MPTDI	Mail-Petition Decision - Dismissed			0
176	11/23/2022	NA	PTDI	Petition Decision - Dismissed			0
175	11/23/2022	NA	OPPT	O.P. Petition Decision			0
174	05/20/2022	NA	PET.	Petition Entered			0
173	05/26/2022	NA	FWDX	Date Forwarded to Examiner			0
172	05/20/2022	01/19/2021	SA..	Supplemental Response		486	153

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPI	Patent action number
171	05/26/2022	NA	FWDX	Date Forwarded to Examiner			0
170	05/20/2022	NA	SA..	Supplemental Response			0
169	03/28/2022	NA	FWDX	Date Forwarded to Examiner			0
168	03/21/2022	NA	SA..	Supplemental Response			0
167	02/22/2022	NA	FWDX	Date Forwarded to Examiner			0
166	11/25/2020	NA	A...	Response after Non-Final Action			0
165	01/12/2022	NA	INCOR	Interview Request Correction			0
164	11/15/2021	NA	M865E	Electronic request for Examiner Interview			0
163	09/16/2021	NA	EML_NTR	Email Notification			0
162	09/15/2021	NA	MTCPTG	Mail TC Petition Granted			0
161	09/13/2021	NA	OAR	Office Action Review			0
160	09/13/2021	NA	TCPTG	TC Petition Granted			0
159	05/25/2021	NA	EML_NTR	Email Notification			0
158	05/25/2021	NA	NINA	Mail Notice of Informal or Non-Responsive Amendment			0
154	01/25/2021	NA	FWDX	Date Forwarded to Examiner			0
153.1	01/19/2021	NA	A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
153	01/19/2021	11/25/2020	A...	Response after Non-Final Action		55	142
152	01/19/2021	NA	EML_NTR	Email Notification			0
151	01/19/2021	NA	NINA	Mail Notice of Informal or Non-Responsive Amendment			0
150	12/10/2020	NA	EML_NTR	Email Notification			0
149	12/10/2020	NA	MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
148	11/25/2020	NA	EXAT	Interview Summary - Applicant Initiated - Telephonic			0
147	12/05/2020	NA	EXIN	Interview Summary Record			0
146	11/28/2020	NA	FWDX	Date Forwarded to Examiner			0
145.1	11/25/2020	NA	A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
145	11/25/2020	NA	A...	Response after Non-Final Action			0

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPl	Patent action number
144	08/25/2020	NA	ELC_RVW	Electronic Review			0
143	08/25/2020	NA	EML_NTF	Email Notification			0
142	08/25/2020	NA	MCTNF	Mail Non-Final Rejection			0
141	08/01/2020	NA	CTNF	Non-Final Rejection			0
139	07/29/2020	NA	W/AC	Withdrawing/Vacating Office Action Letter			0
138	06/03/2020	NA	EML_NTR	Email Notification			0
137	06/02/2020	NA	MTCPTG	Mail TC Petition Granted			0
136	05/29/2020	NA	OAR	Office Action Review			0
135	05/21/2020	NA	TCPTG	TC Petition Granted			0
134	05/21/2020	NA	MPTGR	Mail-Petition Decision - Granted			0
133	05/20/2020	NA	PTGR	Petition Decision - Granted			0
132	12/18/2019	NA	PET.	Petition Entered			0
127	10/24/2019	NA	TCWD	Appeal ready for PTAB docketing			0
126	10/24/2019	NA	EML_NTR	Email Notification			0
125	10/24/2019	NA	MM327	Mail Miscellaneous Communication to Applicant			0
124	10/21/2019	NA	M327	Miscellaneous Communication to Applicant - No Action Count			0
123	10/18/2019	NA	ELC_RVW	Electronic Review			0
122	10/18/2019	NA	EML_NTF	Email Notification			0
121	10/17/2019	NA	TCRD	Return of Undocketed appeal to the TC			0
120	10/17/2019	NA	PACC	Exam. Ans. Review Complete			0
119	10/18/2019	NA	MAPEA	Mail Examiner's Answer			0
118	10/15/2019	NA	APEA	Examiner's Answer to Appeal Brief			0
117	07/18/2019	NA	APBR	Appeal Brief Review Complete			0
116	07/18/2019	NA	FWDX	Date Forwarded to Examiner			0
115	07/05/2019	NA	T1OFF	track 1 OFF			0
114	07/05/2019	NA	AP.B	Appeal Brief Filed			0
113	07/05/2019	NA	XT/G	Request for Extension of Time - Granted			0
112	02/11/2019	NA	N/AP	Notice of Appeal Filed			0

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPl	Patent action number
111	02/11/2019	NA	XT/G	Request for Extension of Time - Granted			0
110	08/10/2018	NA	ELC_RVW	Electronic Review			0
109	08/10/2018	NA	EML_NTF	Email Notification			0
108	08/10/2018	NA	MCTFR	Mail Final Rejection (PTOL - 326)			0
107	08/05/2018	NA	CTFR	Final Rejection			0
106	06/05/2018	NA	MEXAT	Mail Interview Summary - Applicant Initiated - Telephonic			0
105	05/30/2018	NA	EXAT	Interview Summary - Applicant Initiated - Telephonic			0
104	05/08/2018	NA	FWDX	Date Forwarded to Examiner			0
103	04/20/2018	NA	A...	Response after Non-Final Action			0
102	04/20/2018	NA	XT/G	Request for Extension of Time - Granted			0
101	04/05/2018	NA	M865E	Electronic request for Examiner Interview			0
100	12/21/2017	NA	ELC_RVW	Electronic Review			0
99	12/21/2017	NA	EML_NTF	Email Notification			0
98	12/21/2017	NA	MCTNF	Mail Non-Final Rejection			0
97	12/18/2017	NA	OAR	Office Action Review			0
96	12/11/2017	NA	CTNF	Non-Final Rejection			0
95	11/07/2017	NA	INHY	case Inherited			0
94	11/07/2017	NA	DOCK	Case Docketed to Examiner in GAU			0
93	11/05/2017	NA	APBR	Appeal Brief Review Complete			0
92	11/05/2017	NA	FWDX	Date Forwarded to Examiner			0
91	10/31/2017	NA	T1OFF	track 1 OFF			0
90	10/31/2017	NA	AP.B	Appeal Brief Filed			0
89	10/30/2017	NA	EML_NTR	Email Notification			0
88	10/26/2017	NA	APBR	Appeal Brief Review Complete			0
87	10/30/2017	NA	APBD	Notice -- Defective Appeal Brief			0
86	10/26/2017	NA	FWDX	Date Forwarded to Examiner			0

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPI	Patent action number
85	10/02/2017	NA	T1OFF	track 1 OFF			0
84.1	10/02/2017	NA	APBI	Defective / Incomplete Appeal Brief Filed			0
84	07/05/2019	09/05/2017	AP.B	Appeal Brief Filed		668	79
83	10/02/2017	NA	XT/G	Request for Extension of Time - Granted			0
82	08/14/2017	NA	EIDS.	Electronic Information Disclosure Statement			0
81	06/13/2017	NA	INHY	case Inherited			0
80	06/13/2017	NA	DOCK	Case Docketed to Examiner in GAU			0
79	06/02/2017	05/02/2017	N/AP	Notice of Appeal Filed		31	75
78	06/02/2017	NA	XT/G	Request for Extension of Time - Granted			0
77	02/02/2017	NA	ELC_RVW	Electronic Review			0
76	02/02/2017	NA	EML_NTF	Email Notification			0
75	02/02/2017	12/24/2016	MCTFR	Mail Final Rejection (PTOL - 326)	40		69
74	01/29/2017	NA	OAR	Office Action Review			0
73	01/29/2017	NA	CTFR	Final Rejection			0
72	01/12/2017	NA	IDSC	Information Disclosure Statement considered			0
71	09/01/2016	08/24/2016	EIDS.	Electronic Information Disclosure Statement		8	69
70	09/14/2016	NA	FWDX	Date Forwarded to Examiner			0
69	08/24/2016	06/24/2016	A...	Response after Non-Final Action		61	64
68	09/01/2016	NA	WIDS	Information Disclosure Statement (IDS) Filed			0
67	08/24/2016	NA	XT/G	Request for Extension of Time - Granted			0
66	03/24/2016	NA	ELC_RVW	Electronic Review			0
65	03/24/2016	NA	EML_NTF	Email Notification			0
64	03/24/2016	09/19/2014	MCTNF	Mail Non-Final Rejection	552		0.5
63	03/21/2016	NA	OAR	Office Action Review			0
62	03/18/2016	NA	OAR	Office Action Review			0
61	03/09/2016	NA	OAR	Office Action Review			0
60	03/07/2016	NA	OAR	Office Action Review			0

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPl	Patent action number
59	03/06/2016	NA	CTNF	Non-Final Rejection			0
58	01/21/2016	NA	C602	Oath or Declaration Filed (Including Supplemental)			0
56	01/23/2016	NA	OAR	Office Action Review			0
55	01/23/2016	NA	OAR	Office Action Review			0
47	04/28/2014	NA	IDSC	Information Disclosure Statement considered			0
46	01/27/2014	NA	IDSC	Information Disclosure Statement considered			0
45	08/27/2013	NA	IDSC	Information Disclosure Statement considered			0
44	08/02/2013	NA	IDSC	Information Disclosure Statement considered			0
43	07/19/2013	NA	IDSC	Information Disclosure Statement considered			0
42	07/19/2013	NA	IDSC	Information Disclosure Statement considered			0
41	07/19/2013	NA	IDSC	Information Disclosure Statement considered			0
40	12/15/2015	NA	DOCK	Case Docketed to Examiner in GAU			0
39	11/17/2015	NA	DOCK	Case Docketed to Examiner in GAU			0
38	11/05/2015	NA	DOCK	Case Docketed to Examiner in GAU			0
37.09	08/31/2015	NA	CCRDY	Application ready for PDX access by participating foreign offices			0
34	04/28/2014	NA	EIDS.	Electronic Information Disclosure Statement			0
33	04/28/2014	NA	WIDS	Information Disclosure Statement (IDS) Filed			0
32	01/27/2014	NA	EIDS.	Electronic Information Disclosure Statement			0
31	01/27/2014	NA	WIDS	Information Disclosure Statement (IDS) Filed			0
30	11/15/2013	NA	EML_NTR	Email Notification			0
29	11/14/2013	NA	PG-ISSUE	PG-Pub Issue Notification			0
28	08/02/2013	NA	EIDS.	Electronic Information Disclosure Statement			0
27	07/19/2013	NA	EIDS.	Electronic Information Disclosure Statement			0

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPl	Patent action number
26	07/19/2013	NA	A.PE	Preliminary Amendment			0
25	08/27/2013	NA	A.PE	Preliminary Amendment			0
24	08/27/2013	NA	M844	Information Disclosure Statement (IDS) Filed			0
23	08/27/2013	NA	A.PE	Preliminary Amendment			0
22	08/27/2013	NA	WIDS	Information Disclosure Statement (IDS) Filed			0
21	08/27/2013	NA	P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED			0
20	08/27/2013	NA	DIST	Terminal Disclaimer Filed			0
19	08/12/2013	NA	DOCK	Case Docketed to Examiner in GAU			0
18	08/09/2013	NA	COMP	Application Is Now Complete			0
17	08/09/2013	NA	EML_NTR	Email Notification			0
16	08/09/2013	NA	EML_NTR	Email Notification			0
15	08/09/2013	NA	PA..	Change in Power of Attorney (May Include Associate POA)			0
14	08/08/2013	NA	FTFI	FITF set to NO - revise initial setting			0
13	08/08/2013	NA	COMP	Application Is Now Complete			0
12	08/08/2013	NA	OIPE	Application Dispatched from OIPE			0
11	08/09/2013	NA	FLRCPT.O	Filing Receipt			0
10	08/05/2013	NA	SMAL	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27			0
9	07/19/2013	NA	APPERMS	Applicants have given acceptable permission for participating foreign			0
8	08/02/2013	NA	WIDS	Information Disclosure Statement (IDS) Filed			0
7	07/25/2013	NA	L194	Cleared by OIPE CSR			0
6	07/19/2013	NA	WIDS	Information Disclosure Statement (IDS) Filed			0
5	07/19/2013	NA	WIDS	Information Disclosure Statement (IDS) Filed			0
4	07/19/2013	NA	WIDS	Information Disclosure Statement (IDS) Filed			0
3	07/19/2013	NA	SCAN	IFW Scan & PACR Auto			0

Action number	Action recorded date	Action due date	Action code	Action description	Duration PTO	Duration APPl	Patent action number

TO: terry.forsythe@iplawpro.com,kevin.cuenot@iplawpro.com,ptomail@iplawpro.com
FROM: noreply@uspto.gov
CC: patentcenter_eofficeaction@uspto.gov
SUBJECT: USPTO: Patent Electronic System - Correspondence Notification for Customer Number 55246

Tue Mar 19 05:12:26 EDT 2024

Dear Patent Center Customer:

Correspondence Address:

Cuenot, Forsythe &Kim
5425 Park Central Court
Suite 111
Naples,FLORIDA,34109
UNITED STATES

This is a courtesy notification regarding the following USPTO patent application(s) associated with your Customer Number, 55246, that have new outgoing correspondence. This correspondence is now available for viewing in Patent Center.

The official date of notification of the outgoing correspondence will be indicated on the form (e.g., PTOL-90) accompanying the correspondence.

Disclaimer:
The list of documents shown below are provided as a courtesy and is not part of the official file wrapper. The content of the images shown in the Image File Wrapper is the official record.

Application	Document	Mailroom Date	Attorney Docket No.
13946461	PET.DEC.COCI	03/18/2024	8201-0013
13946461	OA.APPENDIX	03/18/2024	8201-0013

To view your correspondence online, please sign in to Patent Center and then select Workbench/View correspondence. To update your email address(es), select Manage/Manage customer numbers.

If you have any questions, please contact the Patent Electronic Business Center (EBC) at ebc@uspto.gov or 866-217-9197 Monday – Friday, 6 a.m. to midnight ET.

Please do not reply to this email as it was sent from an unmonitored mailbox.

Sincerely,

The Patent Center Team

UNITED STATES
PATENT AND TRADEMARK OFFICE

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

ELECTRONIC ACKNOWLEDGEMENT RECEIPT

APPLICATION #	RECEIPT DATE / TIME	ATTORNEY DOCKET #
13/946,461	**05/14/2024 04:27:43 PM Z ET**	**8201-0013**

Title of Invention

SERVER SYSTEM CONFIGURED TO PROVIDE GRAPHICAL USER INTERFACE FOR MODIFYING WEB PAGES TO INCLUDE HYPERLINKS

Application Information

APPLICATION TYPE	Utility - Nonprovisional Application under 35 USC 111(a)	PATENT #	11763316
CONFIRMATION #	9140	FILED BY	Alaine Allison
PATENT CENTER #	65523436	FILING DATE	07/19/2013
CUSTOMER #	55246	FIRST NAMED INVENTOR	THOMAS L. DISTEFANO III
CORRESPONDENCE ADDRESS	-	AUTHORIZED BY	Scott Paul

Documents

TOTAL DOCUMENTS: 1

DOCUMENT	PAGES	DESCRIPTION	SIZE (KB)
US_Patent_11763316_Renewed_Petition_05-14-20.pdf	113	Patent Term Adjustment Petition	3845 KB

Warning: The PDF file contains multiple layers and must be flattened prior to submission. Documents submitted with multiple layers will be flattened by the USPTO when converted to an image. Layers marked as "invisible" will be lost during conversion.

Digest

DOCUMENT	MESSAGE DIGEST(SHA-512)
US_Patent_11763316_Renewe	33797AC2624AF383974CC4A664546728C91F3A55009D29A2A1

d_Petition_05-14-20.pdf 342EA412DFF3F752235A41A007A14C78B16A932DC3065D8508AC88DDDE91D292331010AB667A27

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

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

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

New International Application Filed with the USPTO as a Receiving Office

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

Attorney Docket No.: 8201-0013 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of	:	Customer Number: 55246
Thomas DISTEFANO III	:	Confirmation Number: 9140
Application No.: 13/946,461	:	Issued: September 19, 2023
Patent No.: 11,763,316	:	Group Art Unit: 3622
Filed: July 19, 2013	:	Examiner: K. Kolosowski-Gager

For: SERVER SYSTEM CONFIGURED TO PROVIDE GRAPHICAL USER INTERFACE FOR MODIFYING WEB PAGES TO INCLUDE HYPERLINKS

RENEWED REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705

Director
Office of Petitions
US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Renewed Request seeks a review of the calculation of Patent Term Adjustment (PTA) by the United State Patent Office (USPTO) for the above-identified patent, as articulated in the Patent Term Adjustment/Notice of Intent to Issue Certificate of Correction (hereinafter "Redetermination Decision") dated March 18, 2024. This Renewed Petition is timely filed within two (2) months from the Redetermination Decision.

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REDETERMINATION DECISION DATED MARCH 18, 2024

On September 19, 2023, Patentee filed a Request for Reconsideration under 37 C.F.R. § 1.705 (hereinafter the Reconsideration Request). In a Redetermination Decision dated March 18, 2024, the USPTO partially agreed with Patentee's Request to increase the PTA for U.S. Patent No. 11,763,316 (hereinafter the "Patent") from 1861 days.

Referring to page 3 of the Redetermination Decision, the USPTO characterized the differences between the USPTO's calculation of PTA and Patentee's calculation of PTA as follows:

> Formula:
>
> "A" delay + "B" delay + "C" delay - Overlap - applicant delay = X
>
> USPTO's Calculation:
>
> 1341 + 2618 + 0 – 789 – 818 = 2352
>
> Patentee's Calculation
>
> 592 + 2618 + 0 – 40 – 161 = 3009

Although the USPTO indicated that Patentee disagreed as to both "A" delay and Overlap, that difference is immaterial as the USPTO's Calculation (1341 + 2618 + 0 – 789) and Patentee's Calculation (592 + 2618 + 0 – 40), absent *applicant delay*, both equate to 3170. Consequently, the only substantive difference between the USPTO's Calculation and Patentee's Calculation is the determination of *applicant delay*. For reasons discussed herein, Patentee disagrees with the USPTO's determination of *applicant delay* in the Redetermination Decision.

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ATTACHMENTS

The following documents[1] are attached hereto and referenced in the "Discussion" section:[2]

APPENDIX I: Petition to Withdraw Terminal Disclaimer under 37 C.F.R. § 1.182 dated May 20, 2022.

APPENDIX J: Office Action dated August 25, 2020.

[1] Unless indicated otherwise, all attachment involve U.S. Patent Application No. 13/946,461.

[2] The attachments start with the letter I since the initial Reconsideration Request included Appendix A-H.

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DISCUSSION

Patentee contests the USPTO's determination in the Redetermination Decision regarding *applicant delay* in two separate instances. Patentee addresses, respectively, these separate instances in the following Section I and Section II.

SECTION I

USPTO's calculation in Redetermination Decision

Referring to page 3 of the Redetermination Decision, the USPTO newly determined the amount of *applicant delay* to be 818 days based upon the following:

> Accordingly, the patent term adjustment is subject to a total reduction of 818 days due to applicant delays (61 days + 8 days + 31 days + 56 days + 30 days + 93 days + 53 days).

The calculation of (61 days + 8 days + 31 days + 56 days + 30 days + 93 days + 53 days) does not equal 818 days. Instead, this calculation adds up to 332 days, which is 486 days short of 818 days. Accordingly, Patentee proceeds under the assumption that the USPTO omitted the 486 day period discussed on page 2 of the Redetermination Decision (and the subject of Section II infra). For reasons discussed below, Patentee respectfully submit that this calculation of 332 days is in error.

USPTO improperly double-counting delay

Referring to page 2 of the Redetermination Decision with regard to the Appeal Brief filed on July 5, 2019, the USPTO stated the following:

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> Patentee and the Office are in agreement that the patent term adjustment was errantly reduced 668 days in connection with the appeal brief filed July 5, 2019. However, the correct reduction is 56 days, not 61 days as argued by patentee. The reduction under 37 CFR 1.704(c)(11) commenced May 14, 2019 and ended July 5, 2019.

Referring again to page 2 of the Redetermination Decision and also with regard to the same Appeal Brief filed July 5, 2019, the USPTO further stated the following:

- 53 days pursuant to 37 CFR 1.704(c)(11) in connection with the appeal brief filed July 5, 2019. The reduction commenced May 14, 0219 and ended July 5, 2019.

There are two problems with this analysis.

First, the difference between July 5, 2019, and May 14, 2019 is 52 days – not 53 days or 56 days, which is what the USPTO indicated on page 2 of the Redetermination Decision, as reproduced immediately above.

Second, the USPTO improperly included both the 53 days and the 56 days in the USPTO's calculation of *applicant delay*. However, the delay associated with the filing of the Appeal Brief dated July 5, 2019, should be counted once – not twice. Consequently, based upon the formula employed by the USPTO on page 3 of the Redetermination Decision, applicant delay should have been calculated as follows:

applicant delay = (61 days + 8 days + 31 days + ~~56 days~~ + 30 days + 93 days + ~~53 days~~ + 52 days) = 275 days

Not including the 486 days of alleged *applicant delay* subsequently addressed in Section II of this Renewed Request, the USPTO determined that the amount of *applicant delay* is 332 days. However, based upon the calculation found immediately above, the USPTO's determination of *applicant delay* is incorrect. Consequently, instead of 332 days, the proper amount should be 275

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days – the difference being 57 days (i.e., 332-275). Therefore, Patentee respectfully requests that 57 days be added to the 2352 days of PTA already indicated in the proposed Certificate of Correction accompanying the Redetermination Decision.

SECTION II

Referring to Section III of the Reconsideration Request filed September 19, 2023, Patentee argued that the determination that 486 days of alleged *applicant delay* associated with the filing of a Supplemental Amendment on May 20, 2022 is incorrect. Referring to page 2 of the Reconsideration Decision, the USPTO confirmed that this 486 days of alleged *applicant delay* was based upon the USPTO's application of 37 C.F.R. § 1.704(c)(8) (also referred to herein as "subsection (c)(8)").

Overview

The USPTO's analysis confuses an action taken (e.g., the filing of the First and Second Supplemental Responses) with "fail[ure] to engage in reasonable efforts" during the period of time, which is the proper standard under 35 U.S.C. § 154(b)(2)(C)(i). Put simply, the case law requires that the USPTO identify an action ***not*** taken by Applicant. However, the USPTO improperly relied upon an action taken by Applicant in establishing *applicant delay*. Also, the USPTO's determination of *applicant delay* ignores that the First Supplemental Response (i.e., the action taken) was filed on March 21, 2022, which was 481 days after the Initial Amendment was filed on November 25, 2020, but only 4 days after the Examiner indicated that the application had been

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returned to the active docket. The USPTO's inaction/improper actions delayed examination – not any action that Applicant could have reasonably taken but failed to do.

Supernus standard for applying (c)(8)

As argued in Section III of the Reconsideration Request, the USPTO's determination that these 486 days constitutes *applicant delay* is inconsistent with Federal Circuit case law. In Supernus Pharms., Inc. v. Iancu, the Federal Circuit specifically looked at subsection (c)(8), and noted "this court has grappled with the reasonableness of 37 C.F.R. § 1.704(c)(8)." 913 F.3d 1351, 1356 (Fed. Cir. 2017) (emphasis added). Consequently, the USPTO should exercise restraint when applying subsection (c)(8). Regardless, as discussed in more detail below, the USPTO's application of Supernus to the facts of the present Patent in determining 486 days of *applicant delay* under subsection (c)(8) is unreasonable and inconsistent with the case law.

The relevant subsection of the PTA statute is as follows:

> (C) Reduction of period of adjustment.—
> (i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

35 U.S.C. § 154(b)(2)(C)(i) (emphases added).

As characterized by the Federal Circuit in Supernus:

> The precise question at issue in this case is whether the USPTO may reduce PTA by a period that exceeds the "time during which the applicant failed to engage in reasonable efforts to conclude prosecution." … On the basis of the plain language

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> of the statute, we hold that the USPTO may not count as applicant delay a period of time during which there was no action that the applicant could take to conclude prosecution of the patent.

Id. at 1358. (emphasis added)

After construing the language of 35 U.S.C. § 154(C)(i), the Federal Circuit determined the following

> Thus, the statutory period of PTA reduction must be the same number of days as the period from the beginning to the end of the applicant's failure to engage in reasonable efforts to conclude prosecution. PTA cannot be reduced by a period of time during which there is no identifiable effort in which the applicant could have engaged to conclude prosecution because such time would not be "equal to" and would instead exceed the time during which an applicant failed to engage in reasonable efforts.

Id. at 1359 (emphasis added). In evaluating the facts presented, the Federal Circuit noted the following:

> We agree with Supernus that there were no efforts that it could have taken in the period of time during the preceding 546 days. The record is silent as to what Supernus could have done to conclude prosecution during the 546-day time period, beginning with the filing of the RCE/IDS on February 22, 2011, and ending on the date of the EPO notification, August 21, 2012. Nor does the USPTO contend that Supernus could have undertaken any "reasonable efforts" during the 546-day time period to conclude prosecution.

Id. at 1360. (emphasis added)

In explaining the basis of the Federal Circuit's holding, the Federal Circuit stated the following:

> A period of time including no identifiable efforts that could have been undertaken cannot be "equal to" the period of failure to undertake reasonable efforts under the terms of the statute. To conclude otherwise renders the PTA statute's "reasonable efforts" language superfluous. This understanding of the plain language makes practical sense and is consistent with the legislative history because

> Congress intended the PTA statute to discourage dilatory conduct by patent applicants and reward applicants that take action to conclude prosecution of the patent.

Id. at 1360-61. (emphasis added)

In summarizing the Supernus standard for reducing PTA based upon *application delay* pursuant to 37 C.F.R. § 1.704(c)(8), the USPTO is tasked with making the following findings:

> 1) An *identification of reasonable efforts/actions* that Applicant could have taken;
>
> 2) Establishing that those reasonable efforts/actions *would have concluded prosecution*; and
>
> 3) Establishing that Applicant *failed to undertake* those reasonable efforts/actions *during the period of time*.

In short, the USPTO is required to identify reasonable efforts/actions that Applicant did not take during the period of time which would have concluded prosecution.

USPTO's findings

The USPTO's initial determination[3] regarding PTA did not address any of the above-identified Supernus findings. However, each of these three different Supernus findings were implicitly addressed in the paragraph spanning pages 2 and 3 of the Reconsideration Decision. Consequently, the present Renewed Request represents the first opportunity Patentee has had to address the USPTO's full analysis regarding the aforementioned Supernus findings.

[3] See Appendix A of the Reconsideration Request.

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The USPTO's findings are found on page 3 of the Reconsideration Request and are reproduced below:

> is noted that also filed on May 20, 2022 was a petition under 37 CFR 1.182 to withdraw terminal disclaimers. This petition was dismissed November 23, 2022 and the renewed petition filed December 13, 2022 was granted April 10, 2023. Absent the favorable consideration of the petition under 37 CFR 1.182, the supplemental reply would not have been subject to favorable consideration by the examiner. Insofar as what action applicant could have taken in lieu of submitting the supplemental reply amending the claims, applicant could have awaited a favorable decision on the petition under 37 CFR 1.182 and/or awaited the Office's response to reply filed January 19, 2022 prior to submission of the amended the claims.

For reasons discussed in more detail below, Patentee respectfully submits that the USPTO has committed error in every one of the three different findings identified above. The USPTO's application of (c)(8) is not based upon an action that Applicant failed to perform during the period of time. Rather, the USPTO's application of (c)(8) is improperly based upon an action that Applicant performed at the very end of the period of time.

An *identification of reasonable efforts/actions* that Applicant could have taken during the period of time

Referring to page 3 of the Reconsideration Decision, the USPTO identified the following efforts/actions that Applicant could have taken:

> consideration by the examiner. Insofar as what action applicant could have taken in lieu of submitting the supplemental reply amending the claims, applicant could have awaited a favorable decision on the petition under 37 CFR 1.182 and/or awaited the Office's response to reply filed January 19, 2022 prior to submission of the amended the claims.

In short, the USPTO states that Applicant "could have awaited a favorable decision ... and/or awaited the Office's response ... prior to submission of the amended [sic] claims" (emphasis added). In other words, the USPTO's position is that Applicant should have waited – i.e., done nothing. Doing nothing is not an action. Rather, doing nothing is an inaction. Consequently, the

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"await[ing]" identified by the USPTO does not constitute an action that Applicant could have taken pursuant to Supernus.

And assuming arguendo that "await[ing] a favorable decision on the petition under 37 CFR 1.182" or "awaiting[ing] the Office's response to reply filed January 19, 2022" could be considered a reasonable effort/action during the period of time pursuant to Supernus, the USPTO still erred as to the analysis required under Supernus. First, the Petition under 37 C.F.R. § 1.182 was filed on May 20, 2022, which coincides with the end of the period of time at issue (i.e., the 486 days between January 19, 2021, and May 20, 2022). Consequently this Petition under 37 C.F.R. § 1.182 did not impact the period of time at issue. Second, to the extent that "await[ing] a favorable decision on the petition under 37 CFR 1.182" could be considered a reasonable effort/action, Applicant actually performed such an alleged effort/action (i.e., awaiting a response from the USPTO) during the period of time.

Establishing that those reasonable efforts/actions *would have concluded prosecution*

Referring again to page 3 of the Reconsideration Decision, the USPTO asserted the following regarding the conclusion of prosecution:

December 13, 2022 was granted April 10, 2023. Absent the favorable consideration of the petition under 37 CFR 1.182, the supplemental reply would not have been subject to favorable consideration by the examiner. Insofar as what action applicant could have taken in lieu of

There are three problems with this allegation.

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