

## STATEMENT OF CONSIDERATIONS

REQUEST BY DUSAN RADOSAVLJEVIC FOR WAIVER OF U.S. AND FOREIGN RIGHTS IN AN IDENTIFIED INVENTION, DOE DOCKET NO. S-117,781 MADE UNDER CONTRACT NO. DE-AC07-05ID14516 WITH CH2M-WG IDAHO, LLC. W(l)-09-001; CH-1473

The Petitioner, Dusan Radosavljevic, has requested a waiver of domestic and foreign patent rights in the invention, S-117,781, "A COUNTING PLANCHETTE FOR COUNTING AND PROTECTION OF THIN PLANAR RADIATION SOURCES SUCH AS AIR SAMPLE FILTERS, SWIPES, AND SIMILAR MEDIA." The subject invention is a holder to retain and protect air filters from damage due to handling.

The invention was made under the above identified prime contract with CH2M-WG IDAHO, LLC for the management and operation of the Department of Energy's Idaho Cleanup Project (ICP). The purpose of this waiver is to grant Dusan Radosavljevic ("Dusan") with clear title to the invention to enable him to commercialize the subject invention. Dusan is the sole inventor of the subject invention.

Referring to item 2 of the waiver petition, the subject invention is at a holder to retain and protect air filters from damage due to handling. Basically, the subject invention is a metal planchette (a small dish) used to retain and secure a flattened air sample filter in position most suitable for protecting the fragile filter surface from accidental damage. Ideally, the invention can mature into a holder used by establishments handling air filters, especially those with contaminated air filters.

Referring to item 3 of the waiver petition, the invention was conceived by Dusan without any specific project funding and during the normal course of his work. CH2M-WG IDAHO, LLC, management and operating contractor of ICP has no interest in funding development of the invention or retaining rights in the invention and therefore has stated that it has no objections to the Petitioner obtaining rights in the invention. The DOE has evaluated the invention and has no interest in pursuing patent protection

on behalf of the Government. Currently, there is no DOE funding or programmatic interest in the invention.

Referring to items 5-9 of the waiver petition, Dusan, a certified nuclear technologist, has worked in the field of nuclear spectrometry, production and assays of radioactive sources, and radiological protection and safety since 1956. Dusan has developed a process and built a facility for the production of large volumes of smoke detector 241 Americium alpha radiation sources. In this process, Dusan leveraged U.S. patent 3,818,545 of which he himself is the sole inventor. Furthermore, for several years Dusan has managed and operated a dedicated automatic machine tool shop.

The grant of this waiver should effectively promote the continued development and commercial utilization of the subject invention since Dusan will be able to manufacture and sell the subject invention as a commercial product. Dusan indicates that a pilot run has been successfully tested and the invention itself is ready for commercialization. Dusan believes he possess all skills and facilities need to commercialize the subject technology and that the subject technology may be commercialized in a very short time period.


The grant of this waiver will help ensure that Dusan can realize the full potential of the subject invention. The Government and its contractors have no further funding or research planned to further develop the invention or pursue patent protection on the invention, thus, the waiver is necessary for the commercialization of the subject invention.

The Petitioner has agreed that this waiver will be subject to the march-in and preference for U.S. industry provisions, as well as the U. S. Government license, set out in 35 U.S.C. 202-204. Furthermore, Petitioner has agreed to the attached U.S. Competitiveness provision (paragraph (t)). In brief, Petitioner has agreed that products embodying a waived invention or produced through the use of a waived invention will be

manufactured substantially in the United States unless the Petitioner can show to the satisfaction of the DOE that is not commercially feasible to do so. The Petitioner has further agreed to make the above conditions binding on any assignee or licensee or any entity otherwise acquiring rights in the waived inventions, including subsequent assignees and licensees. Should the Petitioner or other such entity receiving rights in the waived invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by DOE.

Referring to item 10 of the waiver petition, granting this waiver will not have an adverse impact on competition. Although there are not any comparable devices on the market, there are other methods of holding filters. Therefore, it is anticipated that granting this waiver will spur further competition in this field by adding another provider of filter holders.


Considering the foregoing, it is believed that granting this waiver will provide Petitioner with the necessary incentive to invest its resources in the commercialization of the subject invention in a fashion which will make the technology available to the public in the shortest practicable time. Therefore, upon evaluation of the waiver petition and in view of the objectives and considerations set forth in 10 CFR Part 784, all of which have been considered, it is recommended that the requested waiver be granted.

  
Michael J. Dobbs  
Patent Attorney  
Intellectual Property Law Division

Date: 4/21/2009

Based upon the foregoing Statement of Considerations and representations in the attached waiver petition, it is determined that the interests of the United States and the general public will best be served by a waiver of patent rights of the scope described above, and therefore the waiver is granted.

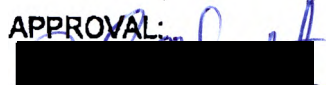
CONCURRENCE

  
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Date:

6/17/2009

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6-18-09

WAIVER ACTION - ABSTRACT  
W(I)-09-001

REQUESTOR

DUSAN  
RADOSAVLJEVIC

CONTRACT SCOPE

The management and operation of  
the Department of Energy's Idaho  
Cleanup Project (ICP)

RATIONALE FOR  
DECISION

Dusan is willing and is the  
best suited for  
commercializing the subject  
invention. The grant of this  
waiver will help ensure  
commercialization.

(t) U. S. Competitiveness

The Petitioner agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States unless the Petitioner can show to the satisfaction of the DOE that it is not commercially feasible to do so. In the event the DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. The Petitioner agrees that it will not license, assign or otherwise transfer any waived invention to any entity unless that entity agrees to these same requirements. Should the Petitioner or other such entity receiving rights in the invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by the DOE.