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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5620962	1997-04-15	08484832	1995-06-07	49000.1000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ann w speckman/	Date (YYYY-MM-DD)	2007-04-13
Name	Ann W. Speckman	Registration Number	31881

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5620962
Issue Date: April 15,1997
Application No. 08484832
Filed: June 7,1995
Attorney Docket No. 87018.1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 13,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 13,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 22

DATE : 4/23/07

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction for Appl. No.: 08484918 Patent No.: 5809336

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

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

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

Valerie Jackson

Certificates of Correction Branch

703-308-9390 ext. 114

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: The examiner agrees with applicants' explanation submitted on June 30, 2006.

SPE

2155

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 5,809,336
APPLICATION NO. : 08/484918
DATED : September 15, 1998
INVENTOR(S) : Moore et al.

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

Column 34,
Line 25, delete "oscillator" and insert --variable speed clock--.

Signed and Sealed this

Twenty-second Day of May, 2007

Jon W. Dudas

JON W. DUDAS
Director of the United States Patent and Trademark Office

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAR 19 2001

Paper No. #25

Martin & Ferraro
14500 Avion Parkway, Suite 300
Chantilly VA 20151-1101

In re Application of Gary K. Michelson, M.D. Serial No. : 08/484,928 Filed : June 7, 1995 For : Frusto-Conical Interbody Spinal Fusion Implant	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed February 14, 2001 to review the holding of abandonment mailed January 29, 2001 for failure to respond to the Office action mailed June 16, 2000. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response that included a three-month extension of time request, proposed drawing corrections, and an IDS, as well as a copy of a PTO stamped receipt dated December 5, 2000. It is noted that the original response has been found and is now in the file. Any inconvenience is respectfully regretted.

In view of the above, the Notice of Abandonment mailed January 29, 2001 is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed December 5, 2000.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/3/07/01

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

NOV - 8 2001

Martin & Ferraro, LLP
14500 Avion Parkway, Suite 300
Chantilly, VA 20151-1101

Paper No. 34

In re Application of Gary K. Michelson, M.D. Serial No. : 08/484,928 Filed : June 7, 1995 For : Frusto-Conical Interbody Spinal Fusion Implant	:	DECISION ON REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION

This is in response to a telephone call to the undersigned from the attorney of record, Thomas H. Martin, on November 6, 2001. During the course of the telephone conversation, applicant put forth his position that the final Office action mailed May 10, 2001 (Paper No. 30) was premature and that both that Office action and the Advisory Action mailed October 11, 2001 (Paper No. 33) were incomplete. Applicant requested that the finality of the Office action mailed May 10, 2001 be withdrawn and that applicant be provided with a complete Office action. This communication is therefore a decision on the request for withdrawal of the finality of the Office action mailed May 10, 2001.

A review of the file gives evidence that applicant's request has merit. The record shows that on September 11, 2001, applicant filed a complete response (Paper No. 32) to the above noted final Office action. That response was accompanied by a Certificate of Transmission under 37 CFR 1.8 dated September 10, 2001 and an appropriate request for an extension of time under 37 CFR 1.136 with a request that the appropriate fee be charged to applicant's deposit account. In that response applicant 1) requested that the examiner treat several untreated information disclosure statements that have been filed during the course of prosecution in this application, 2) asserted that the final rejection dated May 10, 2001 is premature for failure to properly treat all of the claims, and 3) argued the substance of the rejections. The record further shows that none of the several information disclosure statements have been addressed, the final Office action does not treat all the claims of record, the advisory action does not treat all the claims of record, and that the application otherwise warrants further consideration by the examiner.

Accordingly, the finality of the Office action mailed May 10, 2001 is hereby withdrawn and both that action and the advisory action mailed October 11, 2001 are hereby vacated. A new Office action addressing all claims of record and otherwise complete in all respects will be forthcoming in due course.

Summary: The finality of the May 10, 2001 Office action is <u>withdrawn</u>. Both the May 10, 2001 Office action and the October 11, 2001 advisory action are <u>vacated</u>.

John E. Kittle, Director
Technology Center 3700
Phone: (703) 308-0873

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United States Patent and Trademark Office
P.O. Box 1450
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MICHAEL BEST & FRIEDRICH LLP
ONE SOUTH PINCKNEY STREET
P O BOX 1806
MADISON, WI 53701

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APR 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
J. Bradley Phipps et al.	:	
Application No. 08/484,934	:	DECISION ON PETITION
Filed: June 7, 1995	:	TO WITHFRAW
Attorney Docket No. ALZA-0877/ARC2017	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed June 7, 2006.

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

A review of the file record indicates that the power of attorney to Michael Best & Friedrich LLP has been revoked by the assignee of the patent application on July 26, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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Paper No. 42

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OFFICE OF PETITIONS

DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
2355 MAIN STREET, SUITE 200
IRVINE, CA 92623

In re Application
Application No. 08/485,070
Filed: June 7, 1995
Attorney Docket No. 951028 (US)

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 24, 2001, to withdraw the Terminal Disclaimer filed October 25, 1999, in the above-identified application.

The petition under 37 CFR 1.182 is **dismissed**.

Petitioners request that the Terminal Disclaimer, filed October 25, 1999, in response to the rejection based on obviousness-type double patenting made in the April 7, 1999 Office action be withdrawn. Petitioners assert the aforementioned rejection was improperly instituted. Petitioners have not demonstrated that the circumstances of this application warrant the relief requested.

MPEP 1490 sets forth in pertinent part, "Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered."

Inspection of the prosecution history of the instant application reveals that the terminal disclaimer was submitted to overcome a rejection for obvious double patenting over the claims of 5,677,899.

It is clear that petitioners are seeking to reopen the question of the propriety of the rejection made in the Office action of April 7, 1999. In essence, petitioner is attempting, by petition, to have the Office determine whether the double patenting rejection was proper.

It is the long-established policy of the Patent and Trademark Office to maintain the line of demarcation between petitionable and appealable subject matter. MPEP 1201. When the question of whether or not a given set of claims in one application or patent is distinct, or lies within the aegis of 35 USC 121, from another set of claims in another application or patent with respect to obviousness double patenting arises, that question relates to the merits of an invention, and the appropriate remedy for resolution of that issue ultimately lies by appeal as provided by statute. See e.g. In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985). As noted by the court in In re Faust, 378 F.2d 966, 153 USPQ 813 (CCPA 1967) "the terminal disclaimer eliminates the necessity of considering what are most often exceedingly difficult questions. i.e., whether the subject matter of the appealed claims is obvious in view of the patent claims relied on as the basis for 'double patenting,' thus conserving judicial man hours both here and in the Patent Office." Further, it is well settled that the Commissioner will not, on petition, usurp the functions or impinge upon the jurisdiction of the Board. See In re Dickerson, 299 F.2d 954, 958, 133 USPQ 39, 43 (CCPA 1962); Bayley's Restaurant v. Bailey's of Boston, Inc., 170 USPQ 43, 44 (Comm'r Pat. 1971).

Even assuming, *arguendo*, the relief requested should be considered on petition, petitioners are reminded that, as a general rule, public policy does not favor the restoration to the patentee [applicant] of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, e.g., intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935). Petitioners have failed to provide a reasonable, much less any, assurance that the public interest will, or can be, protected if the relief requested in this petition are given favorable consideration. In this regard, an applicant's use, and Office acceptance, of a terminal disclaimer is in the public interest because such encourages the disclosure of additional developments, the earlier filing of patent applications, and the earlier expiration of patents whereby the inventions covered become freely available to the public. See In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968). It is brought to petitioners' attention that the principle against recapturing something that has been intentionally dedicated to the public dates back at least to Leggett v. Avery, 101 U.S. 246 (1879). While petitioners may now consider the previously filed disclaimer to be unnecessary, or unnecessarily limiting, petitioners are, nevertheless, confronted with what has been characterized as "an unhappy circumstance", rather than a circumstance(s) necessitating relief. Jentoft at 639 n. 6, 157 USPQ at 368 n. 6.

Petitioners had the opportunity to challenge the need for a terminal disclaimer, on appeal, but instead freely chose to file a terminal disclaimer to avoid the rejection. Moreover, petitioners have provided no explanation as to why filing of the terminal disclaimer, as opposed to contesting the propriety of the rejection, was caused or contributed to by circumstances beyond petitioners' control. Such does not afford proper legal or public policy grounds for requesting nullification of the terms of free dedication to the public contained in the previously filed terminal disclaimer by way of appeal, much less on petition. Cf. Ex Parte Anthony, 230 USPQ 467 (PBAI 1982) aff'd. No. 84-1357 (Fed. Cir. June 14, 1985).

Petitioner may wish to take note of MPEP 1490 which states in part, "The filing of a continuation application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer."

The file is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 46

DISCOVISION ASSOCIATES
INTELLECTUAL PROPERTY DEVELOPMENT
2355 MAIN STREET, SUITE 200
IRVINE CA 92614

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AUG 0 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Kurt W. Getreuer	:	
Application No. 08/485,070	:	ON PETITION
Filed: June 7, 1995	:	
Attorney Docket No.	:	
951028(US)USC1X11D1 MMM1		

This is a decision on the petition to revive under the unintentional provisions of 37 CFR 1.137(b), filed June 5, 2002, which, for the reasons stated below, is being treated as a petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **granted**.

This application was held abandoned for failure to timely reply to the Office action mailed "1/04/2000." A review of the file record fails to disclose the mailing of an Office action on January 4, 2000; however, the record does indicate that an Ex parte Quayle Office action was mailed on January 7, 2000, which set a two month extendible period for filing a reply thereto. Therefore, the Notice of Abandonment mailed on March 28, 2002 is being treated as a Notice of Abandonment for failure to reply to the January 7, 2000 Office action.

As noted above, the file record discloses the mailing on January 7, 2000 of an Ex parte Quayle Office action, which set a two month extendible period for filing a reply thereto. Specifically, the Office action of January 7, 2000 required the submission of a complete set of formal drawings. On June 7, 2000, petitioner submitted a three month extension of time fee of $870, a Supplemental Information Disclosure Statement, a "Communication" requesting withdrawal of the terminal disclaimer, an Amendment, and formal drawings. A reply to the January 7, 2000 Office action was timely filed.

In response to the June 7, 2000 request by petitioner to withdraw the terminal disclaimer, the Examiner, on April 30, 2001, mailed a letter providing information of the proper avenue of relief in requesting withdrawal of a terminal disclaimer. The letter to petitioner also indicated that "[a]pplicant is given **30 days** for this notice." Within 30 days of the notice, petitioner filed a petition under 37 CFR 1.182 requesting withdrawal of the terminal disclaimer, which petition was dismissed in a decision mailed on August 15, 2001. Thereafter, the Notice of Abandonment was mailed stating that the application was abandoned for failure to timely reply to the "1/04/2000 [sic, 1/07/2000]" Office action.

It appears that the Notice of Abandonment was mailed in error since, as noted above, a reply to the Office action of January 7, 2000 was timely filed on June 7, 2000. The file record fails to indicate that any other Office action requiring a reply was mailed after the mailing of the January 7, 2000 Ex parte Quayle Office action. Therefore, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

In view of the above, the $1,280 fee assessed to the instant petition will be refunded to petitioner's deposit account.

Further, in view of the treatment of this petition as one to withdraw the holding of abandonment under 37 CFR 1.181, the terminal disclaimer filed with the petition under 37 CFR 1.137(b) is not required as a condition for reviving the instant application. Accordingly, the terminal disclaimer filed on June 5, 2002 will not be processed. Since the terminal disclaimer will not be processed, the $110 fee assessed thereto is unnecessary and will likewise be credited to petitioner's deposit account.

This application is being forwarded to Technology Center AU 2653 for appropriate action on the reply received June 7, 2000, as well as the "Response" filed with the instant petition on June 5, 2002.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-8680

COOPER & DUNHAM LLP

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COMPANY/FIRM : United States Patent and Trademark Office

FACSIMILE NO.: (703) 305-7230

FROM: Mark A. Farley/John P. White

TOTAL NUMBER OF PAGES, INCLUDING COVER PAGE: 3

DATE: December 1, 2003

MESSAGE: As you requested, I am forwarding a copy of a Notice of Abandonment dated March 18, 1999 and a Communication dated January 11, 2001.

DOCKET

Gary A. Beaudry and Paul J. Maddon, CD4-GAMMA2 AND CD4-IgG2 CHIMERAS, U.S. Serial No. 08/485,163, filed June 7, 1995, a continuation of U.S. Serial No. 07/960,440, filed December 8, 1992, national stage application of PCT International Application No. PCT/US92/01143, filed February 10, 1992, claiming priority of and a continuation-in-part of U.S. Serial No. 07/653,684, filed February 8, 1991, now abandoned - Our Docket 37690-II-1- PCT-US

IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE TO (212) 278-0400.

==========

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Patent and Trademark Office
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Status Inquiry: 6/11/2001 W.D.

DEA/FCE-1994

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
04/485,163	06/07/95	BEAUDRY ET AL	37690-II-1-PCT-US

RECEIVED JAN 10 2001

EXAMINER	
Lazar Wesley, Ellane M.	
ART UNIT	PAPER NUMBER
1648	28

DATE MAILED: 01/11/01

Please find below a communication from the EXAMINER in charge of this application.
Commissioner of Patents

The Notice of Abandonment mailed **March 09, 1999** has been withdrawn.

The copy or original response filed **June 10, 1999** has been made of record in the file.

The application has been returned to pending status and forwarded to the examiner for consideration.

Barbara A. Frieson
Supervisory Legal Instruments Examiner
Team I
703-305-3189

08/485 163

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

CTNS

JOHN P. WHITE
COOPER & DUNHAM
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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EXAMINER

ART UNIT	PAPER NUMBER
	26

DATE MAILED: TVC

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☒ Applicant's failure to timely file a proper response to the Office letter mailed on 11/08/98.

☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of ____ month(s)) which expired on _____.

☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).

☒ No response has been received.

☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.

☐ The submitted issue fee of $_____ is insufficient. The issue fee required by 37 CFR 1.18 is $_____.

☐ The issue fee has not been received.

☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.

☐ The proposed new formal drawings filed _____ are not acceptable.

☐ No proposed new formal drawings have been received.

☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below:

LILA FEISEE
SUPERVISORY PATENT EXAMINER

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5681792	1997-10-28	08485334	1995-06-07	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Andrea T. Borucki/	Date (YYYY-MM-DD)	2010-02-18
Name	Andrea T. Borucki	Registration Number	33651

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5681792
Issue Date: October 28,1997
Application No. 08485334
Filed: June 7,1995
Attorney Docket No. MA52DF.C1

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 18,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 18,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#27

NATHAN P. KOENIG
TWO EMBARCADERO CENTER,
SUITE 2000
SAN FRANCISCO , CA 94120-7936

In re Application of	:
Francis C. Szoka et al	:
Serial No.: 08/485,430	: PETITION DECISION
Filed: June 7, 1995	:
Attorney Docket No.: 13054.00130	:

This is a decision on applicants' Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment, filed September 25, 2000, due to non-receipt of an Office action.

A review of the file history shows that the examiner, following applicants submission of papers under 37 CFR 1.129(a), mailed an Office action to applicants on November 23, 1999, setting a three month shortened statutory period for response. Upon failure to receive a response a Notice of Abandonment was mailed to applicant on August 25, 2000.

Applicant has provided a statement of non-receipt of the Office action and a copy of the computer docketing record and mail log entries for the dates in question which show no entry for the above identified Office action. It is concluded that the Office action was not received.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing of this decision.

The application will be returned to the examiner for prompt mailing of the a new Office action.

As no petition fee is required for this petition, the petition fee paid of $130.00 will be credited to applicants' Deposit Account No. 03-3821, as directed.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Group 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
Director, Technology Center 1600

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NATHAN P. KOENIG
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SAN FRANCISCO, CA 94120-7936

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OFFICE OF PETITIONS

In re Application of Francis C. Szoka, Jr., et al. Application No. 08/485,430 Filed: June 7, 1995 Attorney Docket No. 13054.00130	: : : : :	ON PETITION

This is a decision on the petition, filed February 3, 2006, to revive the above-identified application under 37 CFR 1.137(b).

The petition is GRANTED.

Receipt is acknowledged of the Notice of Appeal and fee on February 3, 2006. Receipt is also acknowledged of the terminal disclaimer filed July 3, 2006 under 37 CFR 1.137(d). The terminal disclaimer has been entered and made of record.

The 2-month period for filing the Appeal Brief under 37 CFR 41.37(a)(1), accompanied by the fee set forth in 37 CFR 41.20(b)(2), runs from the date of this decision.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center AU 1631.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. None

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1100 NEW YORK AVENUE NW
WASHINGTON DC 20005-3934

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of
William N. Drohan, Martin J. MacPhee,
Michael L. O'Leary, Hernan A. Nunez, and
Manish Singh
Application No. 08/485,883
Filed: June 7, 1995
Attorney Docket No. 1327.0440007
Title: METHODS FOR TREATING WOUND
TISSUE AND FORMING A
SUPPLEMENTED FIBRIN MATRIX

DECISION ON PETITIONS
UNDER 37 C.F.R. §§1.183 and 1.48(a)

This is in response to the petitions under 37 C.F.R. §§1.48(a)[1] and 1.183, filed concurrently on September 16, 2003.

On June 7, 1995, the application was deposited, identifying William N. Drohan, Martin J. MacPhee, Michael L. O'Leary, Hernan A. Nunez, and Manish Singh as joint inventors. On September 16, 2003, the instant petition was filed, requesting that joint inventor O'Leary be deleted, and that joint inventors Wilson H. Burgess, Thomas Maciag, and Gene Liau be added as joint inventors.

1A grantable petition under 37 C.F.R. §1.48(a) requires:

(1) the petition fee of $130;
(2) A request to correct the inventorship that sets forth the desired inventorship change;
(3) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(4) either an oath or a declaration by the actual inventor or inventors as required by 37 C.F.R. § 1.63 or as permitted by 37 C.F.R. §§ 1.42, 1.43 or § 1.47, and;
5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee

Petitioner has included two petition fees, a request to change the inventorship, statements from each of the inventors to be added and to be deleted, a statement of written consent from the assignee, and a newly executed declaration from each of the inventors, save inventor MacPhee. As petitioner was not able to secure the signature of joint inventor MacPhee on the new declaration, a petition under 37 C.F.R. §1.183 has been filed.

It is noted that the Petitioner is not of record.

Regarding the petition under 37 C.F.R. §1.183, the proper standard to apply is that of 37 C.F.R. §1.47(a)[2]. Petitioner has submitted the petition fee and a declaration that complies with the requirements of 37 C.F.R. §1.63, meeting requirements (1) and (5) above. Requirement (2) is not applicable.

Regarding the third requirement, Petitioner has not supplied the last known address of non-signing joint inventor MacPhee.

As for the fourth requirement, Petitioner has set forth that a copy of the declaration and the claims were submitted to Mr. MacPhee on April 9, 2003, April 18, 2003, May 15, 2003, and June 3, 2003. The specification was not provided to him, although it was sent to him on June 2, 2001.

With this, the Petitioner has presumed that the non-signing inventor still retains a copy of the specification which was provided to him two years prior. While it is possible that Mr. MacPhee retains this copy, it is equally possible that he has since disposed of it or misplaced it. As such, petitioner has shown that a complete copy of the application was *not* provided to the non-signing inventor for his review prior to the execution of the declaration sent to him in 2003.

It follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR §1.83 is granted to waive the requirement that each of the joint inventors execute the new declaration, since such a procedure ensures that the inventor is apprised of the application to which the declaration is directed.

---

[2]A petition under 37 C.F.R. §1.47(a) carries with it five requirements:

(1) the petition fee of $130;

(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);

(3) a statement of the last known address of the non-signing inventors;

(4) either

a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or

b) proof that the non-signing inventor cannot be found or reached after diligent effort;

(5) a declaration which complies with 37 CFR §1.63.

As the last known address of the non-signing inventor has not been provided, a complete copy of the application was not submitted for his review, and he has not refused to sign the declaration, the petition under 37 C.F.R. §1.183 must be **DISMISSED**.

Regarding the petition under 37 C.F.R. §1.48, Petitioner has met requirements (1) –(3) and (5) above. Joint inventor MacPhee has not signed the new declaration, and pursuant to the discussion above, this requirement has not been waived.

For this reason, the petition under 37 C.F.R. §1.48(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and should address only the deficiencies noted above, except that it may compose of a new declaration executed by the non-signing joint inventor. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.47(a)."

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5]. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process can take as much as three weeks.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.

Paul Shanoski
Attorney
Office of Petitions
United States Patent and Trademark Office

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

5 (703) 872-9306, attention Office of Petitions, Attorney Paul Shanoski. Please note this is a central facsimile number, and as such, there may be a delay in the delivery of the facsimile to the undersigned.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

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WASHINGTON DC 20005-3934

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OFFICE OF PETITIONS

In re Application of
William N. Drohan, Martin J. MacPhee,
Michael L. O'Leary, Hernan A. Nunez, and
Manish Singh
Application No. 08/485,883
Filed: June 7, 1995
Attorney Docket No. 1327.0440007
Title: METHODS FOR TREATING WOUND
TISSUE AND FORMING A
SUPPLEMENTED FIBRIN MATRIX

DECISION ON RENEWED PETITIONS UNDER 37 C.F.R. §§1.183 and 1.48(a)

This is in response to the renewed petitions under 37 C.F.R. §§1.48(a)[1] and 1.183, filed concurrently on August 4, 2004.

On June 7, 1995, the application was deposited, identifying William N. Drohan, Martin J. MacPhee, Michael L. O'Leary, Hernan A. Nunez, and Manish Singh as joint inventors. On September 16, 2003, the original petition was filed, requesting that joint inventor O'Leary be deleted, and that joint inventors Wilson H. Burgess, Thomas Maciag, and Gene Liau be added as joint inventors.

1A grantable petition under 37 C.F.R. §1.48(a) requires:

(1) the petition fee of $130;
(2) A request to correct the inventorship that sets forth the desired inventorship change;
(3) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(4) either an oath or a declaration by the actual inventor or inventors as required by 37 C.F.R. § 1.63 or as permitted by 37 C.F.R. §§ 1.42, 1.43 or § 1.47, and;
5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee

The original petitions were received on September 16, 2003, and were dismissed via the mailing of a decision on March 5, 2004. The petition under 37 C.F.R. §1.183 was dismissed for failure to supply the last known address of the non-signing inventor, and for failure to establish that a complete copy of the application was submitted for the non-signing inventor to review.

The petition under 37 C.F.R. §1.48 was dismissed, as joint inventor MacPhee failed to execute the new declaration, and the dismissal of the former petition prevented the waiver of this requirement.

With the renewed petition, Petitioner submitted a three-month extension of time to make timely this response. Petitioner has requested that the two petitions be dismissed as moot, as she intends to make further corrections to the inventorship at some point in the future.

The Office will not dismiss the current petition under 37 C.F.R. §1.183 as moot until the underlying issues are supplanted by a subsequent petition which introduces the further corrections to the inventorship. In other words, the matter is not moot until the Petitioner makes the matter moot by modifying her request to change the inventorship.

For this reason, the petition under 37 C.F.R. §1.48(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and should address only the deficiencies noted above, except that it may compose of a new declaration executed by the non-signing joint inventor. Petitioner may also submit a request that the further corrections to the inventorship which she alluded to in this renewed petition be made. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Second Renewed Petition under 37 CFR §§1.183 and 1.48(a)."

The second renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

The application file will be retained in the Office of Petitions for two (2) months.

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

4 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

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OFFICE OF PETITIONS

In re Application of
William N. Drohan, Martin J. MacPhee,
Michael L. O'Leary, Hernan A. Nunez, and
Manish Singh
Application No. 08/485,883
Filed: June 7, 1995
Attorney Docket No. 1327.0440007
Title: METHODS FOR TREATING WOUND
TISSUE AND FORMING A
SUPPLEMENTED FIBRIN MATRIX

DECISION ON SECOND RENEWED PETITIONS UNDER 37 C.F.R. §§1.183 and 1.48(a)

This is in response to the second renewed petitions under 37 C.F.R. §§1.48(a)[1] and 1.183, filed concurrently on January 24, 2005.

The Office regrets the period of delay in issuing this decision.

On June 7, 1995, the application was deposited, identifying William N. Drohan, Martin J. MacPhee, Michael L. O'Leary, Hernan A. Nunez, and Manish Singh as joint inventors. On September 16, 2003, the original petition was filed, requesting that joint inventor O'Leary be deleted, and that joint inventors Wilson H. Burgess, Thomas Maciag, and Gene Liau be added as joint inventors.

---

1 A grantable petition under 37 C.F.R. §1.48(a) requires:

(1) the petition fee of $130;
(2) A request to correct the inventorship that sets forth the desired inventorship change;
(3) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(4) either an oath or a declaration by the actual inventor or inventors as required by 37 C.F.R. § 1.63 or as permitted by 37 C.F.R. §§ 1.42, 1.43 or § 1.47, and;
5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee

The original petitions were received on September 16, 2003, and were dismissed via the mailing of a decision on March 5, 2004. The petition under 37 C.F.R. §1.183 was dismissed for failure to supply the last known address of the non-signing inventor, and for failure to establish that a complete copy of the application was submitted for the non-signing inventor to review. The petition under 37 C.F.R. §1.48 was dismissed, as joint inventor MacPhee failed to execute the new declaration, and the dismissal of the former petition prevented the waiver of this requirement.

On August 4, 2004, Petitioner submitted a renewed petition, along with a three-month extension of time to make timely this response. Petitioner requested that the two petitions be dismissed as moot, as she intended to make further corrections to the inventorship at some point in the future. The Office will not dismiss a petition under 37 C.F.R. §1.183 as moot until the underlying issues are supplanted by a subsequent petition which introduces the further corrections to the inventorship. In other words, the matter is not moot until the Petitioner makes the matter moot by modifying her request to change the inventorship. As such, the renewed petition was dismissed via the mailing of a decision on August 24, 2004.

With this second renewed petition, Petitioner has now determined that the inventorship needs to be changed in a way which differs from her previous two requests.

When the application was deposited, the joint inventors were identified as William N. Drohan, Martin J. MacPhee, Michael L. O'Leary, Hernan A. Nunez, and Manish Singh. With the present petition, Petitioner has requested the deletion of Messrs. O'Leary and Mr. Singh, and the addition of Messrs. Wilson H. Burgess, Thomas Maciag, and Gene Liau.

Petitioner has included a petition fee and a processing fee, totaling $530. These petition fees were not required as the present petition is a second renewed petition – however, as the decision on the second renewed petition set a period of response of two months, a three-month extension of time ($510) is required in order to make this response timely. As such, the difference of $20 will be refunded to Petitioner's Deposit Account, as authorized in the petition.

With this second renewed petition, Petitioner has included a request to change the inventorship, statements from each of the inventors to be added and to be deleted save Mr. Singh, a statement of written consent from the assignee, and a newly executed declaration from each of the inventors Petitioner wishes to have associated with this application. As Petitioner was not able to secure a statement under 37 C.F.R. §1.48(a)(2) from Mr. Singh indicating that the error in inventorship occurred without deceptive intention on his part, a petition under 37 C.F.R. §1.183 has been filed.

It does not appear that Petitioner's name appears on the declaration which she has submitted with this second renewed petition. As such, she is not recognized as having power of attorney for this application.

Regarding the petition under 37 C.F.R. §1.183, the proper standard to apply is that of 37 C.F.R. §1.47(a)[2]. Petitioner has previously submitted the petition fee (the fee associated with a petition

under 37 C.F.R. §1.183 is $400). With the present petition, Petitioner has evinced that a complete copy of the application was sent to Mr. Singh, meeting the second of the three requirements which are applicable to the present situation.

Regarding the first requirement, Petitioner has not supplied the last known address of Mr. Singh.

As for the third requirement, Petitioner has not submitted a declaration which complies with 37 CFR §1.63. The declaration submitted with the present petition contains non-dated changes by inventor Liau[3].

Since neither an acceptable declaration nor the last known address of Mr. Singh has been provided, the petition under 37 C.F.R. §1.183 must be **DISMISSED**.

Regarding the petition under 37 C.F.R. §1.48, Petitioner has met requirements (1) – (2) and (5) above. Regarding the fourth requirement, the declaration which has been provided cannot be accepted, for the reason discussed above. Since the petition under 37 C.F.R. §1.183 has not been granted, the third requirement has not been waived. For this reason, the petition under 37 C.F.R. §1.48(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Third Renewed Petitions Under 37 C.F.R. §§1.48 and 1.183". This is not a final agency action within the meaning of 5 U.S.C 704. The third renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

[2] There are three requirements under 37 C.F.R. §1.47(a) which are applicable to the present situation:
(1) a statement of the last known address of the non-signing inventors;
(2) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(3) a declaration which complies with 37 CFR §1.63.

3 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

STERNE KESSLER GOLDSTEIN & FOX
SUITE 600
1100 NEW YORK AVENUE NW
WASHINGTON DC 20005-3934

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APR 25 2006
OFFICE OF PETITIONS

In re Application of William N. Drohan, Martin J. MacPhee, Hernan Nunez, Gene Liau, Thomas Maciag, and Wilson H. Burgess Application No. 08/485,883 Filed: June 7, 1995 Attorney Docket No. 1327.0440007 Title: METHODS FOR TREATING WOUND TISSUE AND FORMING A SUPPLEMENTED FIBRIN MATRIX	: : : : : : : : : :	DECISION ON THIRD RENEWED PETITIONS UNDER 37 C.F.R. §§1.183 and 1.48(a)

This is in response to the third renewed petitions under 37 C.F.R. §§1.48(a)[1] and 1.183, filed concurrently on March 14, 2006.

On June 7, 1995, the application was deposited, identifying William N. Drohan, Martin J. MacPhee, Michael L. O'Leary, Hernan A. Nunez, and Manish Singh as joint inventors. On September 16, 2003, the original petition was filed, requesting that joint inventor O'Leary be deleted, and that joint inventors Wilson H. Burgess, Thomas Maciag, and Gene Liau be added as joint inventors.

1A grantable petition under 37 C.F.R. §1.48(a) requires:

(1) the petition fee of $130;
(2) A request to correct the inventorship that sets forth the desired inventorship change;
(3) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(4) either an oath or a declaration by the actual inventor or inventors as required by 37 C.F.R. § 1.63 or as permitted by 37 C.F.R. §§ 1.42, 1.43 or § 1.47, and;
5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee

The original petitions were received on September 16, 2003, and were dismissed via the mailing of a decision on March 5, 2004. The petition under 37 C.F.R. §1.183 was dismissed for failure to supply the last known address of the non-signing inventor, and for failure to establish that a complete copy of the application was submitted for the non-signing inventor to review. The petition under 37 C.F.R. §1.48 was dismissed, as joint inventor MacPhee failed to execute the new declaration, and the dismissal of the former petition prevented the waiver of this requirement.

On August 4, 2004, Petitioner submitted a renewed petition, along with a three-month extension of time to make timely this response. Petitioner requested that the two petitions be dismissed as moot, as she intended to make further corrections to the inventorship at some point in the future. The Office will not dismiss a petition under 37 C.F.R. §1.183 as moot until the underlying issues are supplanted by a subsequent petition which introduces the further corrections to the inventorship. In other words, the matter is not moot until the Petitioner makes the matter moot by modifying her request to change the inventorship. As such, the renewed petition was dismissed via the mailing of a decision on August 24, 2004.

The second renewed petitions under 37 C.F.R. §§1.48(a) and 1.183, were filed concurrently on January 24, 2005, and were dismissed via the mailing of a decision on December 14, 2005: Petitioner determined that the inventorship needed to be changed in a way which differed from her previous two requests.

When the application was deposited, the joint inventors were identified as William N. Drohan, Martin J. MacPhee, Michael L. O'Leary, Hernan A. Nunez, and Manish Singh. With the second renewed petition, Petitioner requested the deletion of Messrs. O'Leary and Mr. Singh, and the addition of Messrs. Wilson H. Burgess, Thomas Maciag, and Gene Liau.

The petitions were dismissed for failure to provide a last known address for Mr. Singh, and for the failure to provide an acceptable declaration.

With this third renewed petition, these deficiencies have been corrected. Furthermore, Petitioner has included a one-month extension of time to make this response timely.

<u>The petition under 37 C.F.R. §1.183</u>:

With the prevenient submissions, Petitioner has submitted the petition fee and established that a diligent effort was undertaken to locate Mr. Singh, the individual who is to be deleted as an inventive entity. The last known address of this individual has been provided with this most recent petition.

37 C.F.R. §1.48(a)(2) sets forth that a statement is required "from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part." It has been determined that justice requires that the requirement that the Petitioner provide a statement from the person being deleted as an inventor be suspended.

As such, the petition under 37 C.F.R. §1.183 is hereby **GRANTED**, and 37 C.F.R. §1.48(a)(2) is hereby **WAIVED**, to the extent set forth above. Therefore, the signature of Mr. Singh will not be required.

The petition under 37 C.F.R. §1.48(a):

Petitioner has preveniently submitted a request to correct the inventorship that sets forth the desired change in the same, the processing fee (which has been charged to Petitioner's deposit account, as authorized in the renewed petition), and the written consent of the assignee. An acceptable declaration has been submitted with the present petition. As set forth above, the requirement that a statement be provided from the individual being deleted as an inventor has been waived.

Therefore, the petition under 37 C.F.R. §1.48(a) is **GRANTED**. Mr. Singh will not be listed as an inventor associated with the above-identified application.

A corrected filing receipt will be included with this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Corrected Filing Receipt

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In re Application of William N. Drohan, Martin J. MacPhee, Hernan Nunez, Gene Liau, Thomas Maciag, and Wilson H. Burgess Application No. 08/485,883 Filed: June 7, 1995 Attorney Docket No. 1327.0440007 Title: METHODS FOR TREATING WOUND TISSUE AND FORMING A SUPPLEMENTED FIBRIN MATRIX	DECISION ON THIRD RENEWED PETITIONS UNDER 37 C.F.R. §§1.183 and 1.48(a)

This is in response to the third renewed petitions under 37 C.F.R. §§1.48(a)[1] and 1.183, filed concurrently on March 14, 2006.

On June 7, 1995, the application was deposited, identifying William N. Drohan, Martin J. MacPhee, Michael L. O'Leary, Hernan A. Nunez, and Manish Singh as joint inventors. On September 16, 2003, the original petition was filed, requesting that joint inventor O'Leary be deleted, and that joint inventors Wilson H. Burgess, Thomas Maciag, and Gene Liau be added as joint inventors.

1A grantable petition under 37 C.F.R. §1.48(a) requires:
(1) the petition fee of $130;
(2) A request to correct the inventorship that sets forth the desired inventorship change;
(3) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(4) either an oath or a declaration by the actual inventor or inventors as required by 37 C.F.R. § 1.63 or as permitted by 37 C.F.R. §§ 1.42, 1.43 or § 1.47, and;
5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee

The original petitions were received on September 16, 2003, and were dismissed via the mailing of a decision on March 5, 2004. The petition under 37 C.F.R. §1.183 was dismissed for failure to supply the last known address of the non-signing inventor, and for failure to establish that a complete copy of the application was submitted for the non-signing inventor to review. The petition under 37 C.F.R. §1.48 was dismissed, as joint inventor MacPhee failed to execute the new declaration, and the dismissal of the former petition prevented the waiver of this requirement.

On August 4, 2004, Petitioner submitted a renewed petition, along with a three-month extension of time to make timely this response. Petitioner requested that the two petitions be dismissed as moot, as she intended to make further corrections to the inventorship at some point in the future. The Office will not dismiss a petition under 37 C.F.R. §1.183 as moot until the underlying issues are supplanted by a subsequent petition which introduces the further corrections to the inventorship. In other words, the matter is not moot until the Petitioner makes the matter moot by modifying her request to change the inventorship. As such, the renewed petition was dismissed via the mailing of a decision on August 24, 2004.

The second renewed petitions under 37 C.F.R. §§1.48(a) and 1.183, were filed concurrently on January 24, 2005, and were dismissed via the mailing of a decision on December 14, 2005: Petitioner determined that the inventorship needed to be changed in a way which differed from her previous two requests.

When the application was deposited, the joint inventors were identified as William N. Drohan, Martin J. MacPhee, Michael L. O'Leary, Hernan A. Nunez, and Manish Singh. With the second renewed petition, Petitioner requested the deletion of Messrs. O'Leary and Mr. Singh, and the addition of Messrs. Wilson H. Burgess, Thomas Maciag, and Gene Liau.

The petitions were dismissed for failure to provide a last known address for Mr. Singh, and for the failure to provide an acceptable declaration.

With this third renewed petition, these deficiencies have been corrected. Furthermore, Petitioner has included a one-month extension of time to make this response timely.

<u>The petition under 37 C.F.R. §1.183</u>:

With the prevenient submissions, Petitioner has submitted the petition fee and established that a diligent effort was undertaken to locate Mr. Singh, the individual who is to be deleted as an inventive entity. The last known address of this individual has been provided with this most recent petition.

37 C.F.R. §1.48(a)(2) sets forth that a statement is required "from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part." It has been determined that justice requires that the requirement that the Petitioner provide a statement from the person being deleted as an inventor be suspended.

As such, the petition under 37 C.F.R. §1.183 is hereby **GRANTED**, and 37 C.F.R. §1.48(a)(2) is hereby **WAIVED**, to the extent set forth above. Therefore, the signature of Mr. Singh will not be required.

The petition under 37 C.F.R. §1.48(a):

Petitioner has preveniently submitted a request to correct the inventorship that sets forth the desired change in the same, the processing fee (which has been charged to Petitioner's deposit account, as authorized in the renewed petition), and the written consent of the assignee. An acceptable declaration has been submitted with the present petition. As set forth above, the requirement that a statement be provided from the individual being deleted as an inventor has been waived.

Therefore, the petition under 37 C.F.R. §1.48(a) is **GRANTED**. Mr. Singh will not be listed as an inventor associated with the above-identified application.

A corrected filing receipt will be included with this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Corrected Filing Receipt

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JUN 1 9 2002

OFFICE OF PETITIONS

In re Application of
Drohan, et al.
Application No. 08/485,898
Filed: June 7, 1995
Attorney Docket No. 1327.0440008

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 3, 2002.

The petition is **DISMISSED AS MOOT.**

The above-identified application is not abandoned. Office records indicate that a non-final Office action was mailed on July 3, 2001. This Office action set a shortened statutory period for reply of TWO (2) months. On February 1, 2002, petitioner filed an amendment in response to the non-final Office action. Included with the amendment was a petition and fee for a five (5) month extension of time. Accordingly, the February 1, 2002 amendment was timely filed.

Deposit Account No. 19-0036 has been refunded the $640 petition fee.

The above-identified application is being returned to Technology Center 1600 for consideration of petitioner's amendment, filed February 1, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of Drohan, et al. Application No. 08/485,898 Filed: June 7, 1995 Attorney Docket No. 1327.0440008	CORRECTED DECISION ON PETITION

This is a supplemental decision on the petition under 37 CFR 1.137(b), filed April 3, 2002, to revive the above-identified application.

The decision mailed on June 19, 2002 was mailed in error and is hereby **VACATED**.

The petition under 37 CFR 1.137(b), filed April 3, 2002, to revive the above-identified application is **GRANTED**.

Deposit Account No. 19-0036 has been charged the $640 petition fee. The $980 for the five month extension of time, submitted on February 1, 2002, has been refunded to petitioner's deposit account.

The above-identified application is being returned to Technology Center 1600 to await for petitioner's reply to the Office action of August 17, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUN 15 2004
OFFICE OF PETITIONS

In re Application of	:	
Drohan et al.	:	
Application No. 08/485,898	:	ON PETITION
Filed: 7 June, 1995	:	
Attorney Docket No. 1327.0440008	:	

This is a decision on the petition filed on 22 August, 2003, under 37 CFR 1.183 and 1.48(a)(1) which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. **FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION**. The reconsideration request should include a cover letter entitled "Renewed Petition Under 1.48(a) and 1.183."

On 7 June, 1995, the above-identified application was filed.0

On 29 September, 1995, a declaration under 37 CFR 1.63 was filed naming William Nash Drohan and Martin James MacPhee as joint inventors.

On 22 August, 2003, the present petition was filed, whereby petitioners seek to add Jeffrey O. Hollinger as a joint inventor. Petitioners further state that joint inventor MacPhee has refused to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3).

Petition Under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a request including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

The petition lacks item (2) in that one of the named inventors, MacPhee, has not signed an oath or declaration. As petitioners have filed a petition under 37 CFR 1.183 to waive the requirement of MacPhee's signature, this issue is discussed in detail *infra*.

Petition Under 37 CFR 1.183

Petitioners state that MacPhee has refused to sign a supplemental declaration naming the inventive entity, and request waiver under 37 CFR 1.183 of the requirement of 37 CFR 1.48(a)(2) of an oath or declaration signed by each actual inventor in that MacPhee refuses to sign the declaration.

Petitioners' argument has been considered, but is not persuasive. 37 CFR 1.183 permits the Commissioner to waive a rule when extraordinary circumstances exist and justice requires waiver of the rule. Applicant has not shown the existence of any extraordinary circumstances where justice requires waiver of the rule requiring a supplemental oath or declaration. Although it may result in some additional expenditure of resources to obtain the signatures of the inventors on a new oath or declaration, applicants have not shown that any rights will be prejudiced, or that any substantial hardship will result if they are required to comply with the rules.

It is noted that petitioners may request waiver of 37 CFR 1.63 and 1.67 in that they require that an inventor execute a supplemental declaration if the inventors refuse to sign the oath

or declaration or cannot be located.

Petitioners should send or give a copy of the declaration in compliance with 37 CFR 1.63 to MacPhee at his last known addresses, with a request that he sign and return the declaration. If an inventor's signature cannot be obtained, then upon a showing of (1) extraordinary circumstances, such that (2) justice requires, petitioners may seek waiver under 37 CFR 1.183 of that part of the regulation.[1] Petitioners must show that the inability to obtain the signatures of the non-signing inventor is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond petitioners' control.[2] If the inventor refuses to sign the supplemental declaration, petitioners should provide proof that the declaration was sent or given to the non-signing joint inventor by providing a copy of the cover letter transmitting the declaration to the inventor at his last known addresses or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

If a joint inventor refuses in writing to sign the supplemental declaration, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, that person must provide details of the refusal in an affidavit or declaration of facts.

If the declaration is returned as undeliverable, petitioners may provide proof that diligent efforts have been made to locate the joint inventor by providing a copy of an envelope showing that a letter sent to the last known address of the joint inventor was returned as undeliverable by the post office. Details of the efforts made to locate the joint inventor should be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details. If repeated efforts to contact the joint inventor by telephone, Internet, or mail are unsuccessful, petitioners will have shown that the inventors cannot be reached.

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[1] See MPEP 201.03(B).

[2] Although there is no requirement for a showing under 37 CFR 1.47, it is nevertheless appropriate to apply the principles thereof for showing that an inventor is unavailable or cannot be found to the situation at hand. MPEP 409.03(d).

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at 703.308.6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 12 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Drohan et al. :
Application No. 08/485,898 :
Filed: 7 June, 1995 :
Attorney Docket No. 1327.0440008 :

This is a decision on the renewed petition filed on 16 August, 2004, under 37 CFR 1.183 and 1.48(a)(1) which is being treated as (a) a petition under 37 CFR 1.48(a)(1) requesting that a person be added as inventor and (b) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration.

The petition is **GRANTED**.

On 7 June, 1995, the above-identified application was filed.

On 29 September, 1995, a declaration under 37 CFR 1.63 was filed naming William Nash Drohan and Martin James MacPhee as joint inventors.

On 22 August, 2003, a petition was filed, whereby petitioners seek to add Jeffrey O. Hollinger as a joint inventor. Petitioners further state that joint inventor MacPhee has refused to sign the declaration naming the actual inventors as required by 37 CFR 1.48(a)(3). The petition was dismissed on 15 June, 2004.

On 16 August, 2004, the present renewed petition was filed, accompanied by a declaration by petitioners' registered patent counsel Eldora Ellison Floyd, stating that a letter was sent to joint inventor MacPhee on four (4) different dates requesting that MacPhee sign the supplemental declaration naming him as a joint inventor along with joint inventors Drohan and Hollinger. However, no response was received from joint inventor MacPhee.

Petition Under 37 CFR 1.48(a) and 1.183

37 CFR 1.48(a) requires that an amendment to the named inventive

entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(I), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

As a result of papers filed on 16 August, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2).

In view of the efforts recounted in the petition to obtain the signature of Martin J. MacPhee, it is agreed that justice would be served by waiving the requirement for his signature on the statement of lack of deceptive intent required by 37 CFR 1.48(a).

The inventorship of this application has been changed by the addition of: Jeffrey O. Hollinger, Gibsonia, PA.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioner's convenience.

The application is being forwarded to Technology Center 1600 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 35

ENZO THERAPEUTICS, INC.
C/O ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of
Elazar Rabbani et al.
Application No. 08/486,062
Filed: June 7, 1995
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 29, 1999, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed January 21, 1999, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 22, 1999.

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

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 305-9282.

The application file is being forwarded to Technology Center 1600 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 40

CHERYL H AGRIS PHD
ATTORNEY AT LAW
PO BOX 806
PELHAM NY 10803

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SEP 2 0 2002

OFFICE OF PETITIONS

In re Application of
Rabbani, et al.
Application No. 08/486,062
Filed: June 7, 1995
Attorney Docket No. ENZ-48(C2)

DECISION ON PETITION

This is a decision on the petition to revive the above-identified application pursuant to 37 CFR 1.137(b), filed July 5, 2002.[1]

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to timely file a proper Appeal Brief. A final Office action was mailed on January 21, 1999, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above identified application became abandoned on April 22, 1999. A Notice of Abandonment was mailed on August 27, 1999. Petitioner responded by filing a petition to revive under 37 CFR 1.137(b) on November 29, 1999. With the petition to revive, petitioner filed a reply in the form of a Notice of Appeal. The petition was granted in a decision mailed on September 27, 2001. Accordingly, petitioner had two months from the mailing of the September 27, 2001 decision, or until November 27, 2001, to file an Appeal Brief in triplicate. No Appeal Brief having been received, the above-identified application again became abandoned on November 28, 2001. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner has satisfied the requirements for a grantable petition under 37 CFR 1.137(b). Petitioner paid the petition fee, submitted a reply to the January 21, 1999 final Office action in the form of a Continued Prosecution Application (CPA), and made the proper statement of unintentional delay.

The small entity fee for a petition under 37 CFR 1.137(b) of $640 has been charged to Deposit Account No. 05-1135, as authorized. In addition, the CPA fee of $798 has also been charged to petitioner's deposit account.

---

[1] Supplemented by a copy of a Continued Prosecution Application filed via facsimile on September 19, 2002.

The Power of Attorney submitted with the instant petition has been entered. Future correspondence concerning the above identified application will be forwarded to the new attorney at the above address of record.

The application file is being forwarded to Technology Center 1600 for processing of the CPA filed September 19, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cheryl H. Agris
Enzo Biochem, Inc.
527 Madison Avenue (9th Floor)
New York, NY 10022

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of	:	
RABBANI, et al.	:	DECISION ON PETITION
Application No.: 08/486,062	:	
Filed: June 07, 1995	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: ENZ-48(C2)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2006 to revive the above-entitled application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed April 15, 2005, which set a shortened statutory period for reply of three (3) months. While a reply was filed on October 20, 2005, that reply was not timely as indicated by the Notice of Abandonment mailed December 27, 2005. Specifically, the extension of time payment could not be taken as the deposit account did not have sufficient funds. A Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on July 16, 2005.

The present petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Office action mailed April 15, 2005; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of April 15, 2005 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1647.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper N .: _____

DATE : August 14, 2006

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/486,070 Patent No.: 7,064,197

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

ANDREW WANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1631
Art Unit

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,888,807	1999-03-30	08/486,247	1995-06-07	152431USMF

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/C. Irvin McClelland/	Date (YYYY-MM-DD)	2007-06-13
Name	c. Irvin McClelland	Registration Number	21124

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5888807
Issue Date: March 30,1999
Application No. 08486247
Filed: June 7,1995
Attorney Docket No. 2363-108-55-

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 13,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 13,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231 DIW 02-00

Paper No. 28

DAVID TOREN, ESQ.
INTELLECTUAL PROPERTY GROUP
BROWN & WOOD, LLP
ONE WORLD TRADE CENTER
NEW YORK, N.Y. 10048-0557

COPY MAILED

FEB 24 2000

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

ON PETITION

In re Application of :
Tsunekawa et al. :
Application No. 08/486,426 :
Filed: 7 June, 1995 :
Attorney's Docket No. DT-1262 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed on 17 December, 1999, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 August, 1999, for failure to file a timely response to the non-final Office action mailed on 26 May, 1999, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was not mailed.

The Terminal Disclaimer filed on 17 December, 1999, is hereby accepted. The

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

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

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

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

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

period disclaimed is four (4) months, which is equivalent to the period of abandonment. In accepting the Terminal Disclaimer, the sentence "This terminal disclaimer applies to any patent granted on the above-identified application or on any application which is entitled to the benefit of the filing date of this application under 35 U.S.C. 120," is construed to mean that this terminal disclaimer applies to any patent granted on the above-identified application or on any application that contains a specific reference under 35 U.S.C. §§ 120, 121, or 365(c) to this application.[2] Petitioner **must** notify this office if this is not a correct interpretation.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application will be forwarded to Technology Center 2700 for examination of the amendment filed on 17 December, 1999.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Patricia Faison-Ball

Patricia Faison-Ball
Petitions Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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[2] See MPEP 711.03(c).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5595167	1997-01-21	08486696	1995-06-07	119124.119125-001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Gregory P. Bondarenko/	Date (YYYY-MM-DD)	2007-01-18
Name	Gregory P. Bondarenko	Registration Number	44547

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5595167
Issue Date: January 21,1997
Application No. 08486696
Filed: June 7,1995
Attorney Docket No. SC9-95-001

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed January 18,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 18,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jul-07

LISA A HAILE PH D
GRAY CARY WARE & FREIDENRICH LLP
4365 EXECUTIVE DRIVE SUITE 1100
SAN DIEGO CA 92121-2133

COPY MAILED

JUL 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Hostetler et al.	:	
Application No. 08487081	:	ON PETITION
Filed: 06/07/1995	:	
For: PRODRUGS OF	:	
PHARMACEUTICALS WITH IMPROVED	:	
BIOAVAILABILITY	:	

This is a decision on the "PETITION TO WITHDRAW TERMINAL DISCLAIMER" filed on 6 December, 2006 which is treated as a petition under 37 C.F.R. §1.182 requesting that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted.

Petitioners assert that the Terminal Disclaimer filed on 15 June, 2004, does not apply to any claim currently of record and was erroneously submitted.

As the examiner has concurred that the Terminal Disclaimer does not apply to any claim currently of record, the request can be favorably considered.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 1711 for further processing consistent with this decision.

Telephone inquiries relative to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

DLA PIPER US LLP
4365 EXECUTIVE DRIVE, SUITE 1100
SAN DIEGO CA 92121-2133

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 26 2004

KATE MURASHIGE
MORRISON & FOERSTER
3811 VALLEY CENTER DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

In re Application of	:
MILLER et al	:
Serial No.: 08/487,312	: Decision on Petition
Filing Date: 7 JUNE 1995	:
Attorney Docket No. 220002016004	:

This letter is in response to the Petition filed on 19 May 2003 to reopen prosecution under 37 CFR 1.198. The delay in acting upon this petition is regretted.

BACKGROUND

A review of the file history shows that this utility application was filed on 7 June 1995 under 35 USC 111(a). This application is a continuation of 07/480,745, filed 15 February 1990, now allowed, which is a continuation of 07/090,937 filed 28 August 1987, now abandoned, which is a continuation of 06/489,557, filed 28 April 1983, now abandoned, and which is a continuation of 06/181,348, filed 26 August 1980, now abandoned.

The Office action mailed out a restriction requirement on 24 November 1995, which divided the claim set into two inventions, DNA and protein.

Applicants elected Group II, claim 19 drawn to protein, without traverse on 28 February 1996. Claim 19 is drawn to bovine Growth Hormone (bGH) made by culturing host cells which comprise recombinant DNA encoding bGH and recovering the bGH from the culture.

On 13 May 1996, the Office mailed an action objecting to claim 19 for depending upon a non-elected claim and rejecting claim 19 under 35 USC 102 or 103, as being anticipated by, or in the alternative, as obvious over Daniels et al (US Patent No. 3,265,579). The examiner reasoned that Daniels' growth hormone appeared to be substantially similar to that claimed and that the burden of proof was on Applicants to demonstrate a novel or unobvious different between the claimed product and that of the prior art.

Applicants responded in August 1996 with arguments, an amendment to claim 19 and an amendment adding new claims 20-22 which depend upon claim 19. Applicants argued that the claimed bGH was materially different from the bGH described by Daniels in the ultimate safety of the product. Applicants argued that Daniels' bGH may contain the causative agent of Bovine Spongiform Encephalitis (BSE) while the recombinantly produced bGH claimed would not. Applicants provided several references in support of these arguments in an Information Disclosure Statement.

The Office mailed a Final Office action on 16 October 1996, maintaining the rejection under 35 USC 102 or 103. The Examiner reasoned that the claims are product-by-process claims and burden was placed upon applicants to prove by comparative evidence a patentable difference between the claimed product and that described by Daniels.

Applicants filed a Notice of Appeal on 17 January 1997, concurrent with a request for reconsideration. Applicants argued that the two products differ in degree of purity and differ in that Daniels has a significant risk factor when used in cattle while the claimed one does not. Applicants argued that the risks attached to the use of a product are as much a property of a product as any physical characteristics thereof.

An Advisory action was mailed on 14 February 1997, stating that:

> the request for reconsideration has been considered but does not overcome the rejection because no evidence of record has been presented to show that the bGH preparation of Daniels et al contained anything other than bGH. Applicants' bGH does not distinguish over the prior art.

Applicants filed an Appeal Brief on 18 June 1997. The Appeal Brief argued that the claimed bGH prepared by recombinant method has the inherent property conferred by the process by which it is made, of a warranty of freedom from the causative agent of BSE.

The Examiner's Answer was mailed on 3 September 1997, which considered the Appeal Brief and maintained that Applicants have not sufficiently distinguished the claimed bGH from that of the prior art.

A reply brief was filed on 15 October 1997, further arguing product by process limitations.

Various letters were sent from the Office on 10 November 1997, 8 December 1997. 25 March 1998, 19 July 2002. Applicants also submitted various papers on 17 Nov 1997, 9 March 1998, and 31 May 2002. None of these were directed at the substance of the outstanding rejections.

The Hearing Notice was sent from the Office on 23 October 2002. The Hearing was confirmed on 25 November 2002. On March 26 2003, the Board of Patent Appeals and Interferences affirmed the Examiner.

This petition was timely filed on 19 May 2003, within two months of the Board's decision.

DISCUSSION

The file record and the petition have been considered carefully.

The petition asks that prosecution be reopened to permit Applicants to submit the evidence enclosed with this petition. The petition asserts that considerable evidence of commercial success of the claimed subject matter has accumulated between the time prosecution was closed in this case and the present. The petition contains several exhibits (B-G) dated from 3 February 1997 (Exhibit B) to the year 2000 (Exhibit G), which describe sales figures of Applicants' bGH protein, which has been marketed by Monsanto under the trademark Posilac ®.

A review of the prosecution history shows that commercial success had not been not submitted in arguments or evidence by Applicants in response to the rejection under 35 USC 103(a). Because commercial success is one of the secondary considerations relevant to resolving the issue of nonobviousness and because the evidence was obtained after prosecution was closed, the petition provides sufficient cause for applicants to present the evidence of commercial success before the Examiner.

Petitioner provides two reasons for reopening prosecution. The first reason, request to submit evidence of commercial success, given is sufficient basis to grant the petition. Since Petitioner's first reason is good cause for granting the petition, it is unnecessary to consider the second argument.

DECISION

The petition is **GRANTED** for the reasons set forth above. Finality of the Office action mailed 16 October 1996 has been withdrawn. Prosecution is reopened.

Applicants are given **TWO MONTHS** in which to submit evidence enclosed in the petition to the examiner for consideration.

Should there be any questions with regard to this letter, please contact Special Program Examiner Julie Burke by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria VA 22313-1450 or by telephone at (571) 272-0512.

Jasemine C. Chambers

Jasemine Chambers
TC1600 Group Director

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 1 2 2008

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	
Barney et al.	:	
Application No. 08/487,355	:	ON PETITION
Filed: June 7, 1995	:	
Attorney Docket No. 7872-027	:	

This is a decision on the petition, filed March 8, 2004, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Notice of Allowability mailed October 1, 2003, which set a 3 month statutory period for reply. Accordingly, a reply was due on or before January 1, 2004. A Notice of Abandonment was mailed

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on December 31, 2003 of 1. Issue Fee Transmittal; 2. Amendment under C.F.R. 1.312; 3. Amendment Fee Transmittal; 4. Transmittal of Substitute Sequence Listing under 37 CFR 1.821; 5. Two (2) compact disc copies of substitute Sequence Listing; 6. Transmittal for Formal Drawings; and 7. Formal Drawings: 52 Drawings, 83 Sheets.

The reply acknowledged as having been received in the USPTO on December 31, 2003 has been located in the file.

Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowability is hereby withdrawn and the application restored to pending status.

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

Liana Walsh
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
John C. Harvey *and* James W. Cuddihy:

Serial No.: 08/487,526

Filed: June 7, 1995

For: SIGNAL PROCESSING APPARATUS AND METHODS

Group Art Unit: 2737

Examiner: FAILE, A.

Attorney Docket: 05634.0355

RECEIVED
MAY 15 2000
TECH CENTER 2700

Box: Non-Fee Amendment
Commissioner for Patents and Trademarks
Washington, D.C. 20231

REQUEST FOR REISSUE OF OFFICE ACTION

Sir:

The Office Action dated January 13, 2000, appears to have failed to take into account Applicants' claim language as submitted in Applicants' amendment of April 12, 1999, and Applicants therefore request that the above referenced Office Action be withdrawn and a new Office Action be mailed taking into account the above referenced amendment. Included with this request is a copy of the postcard receipt and the response filed on April 12, 1999.

Respectfully submitted,

Donald J. Lecher

Thomas J. Scott, Jr.
Reg. No. 27,836
Donald J. Lecher
Reg. No. 41,933
Attorneys for Applicants
Tel: (202) 955-1938

Date: May 15, 2000
HUNTON & WILLIAMS
1900 K Street, N.W.
12th Floor
Washington, D.C. 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

Mailed

SEP 0 6 2005

Group ~~2700~~ 2600

In re Application of
HARVEY, JOHN C., et al.
Application No. 08/487,526
Filed: June 7, 1995
For: **SIGNAL PROCESSING APPARATUS AND METHODS**

DECISION ON PETITION

This is a decision in response to the Petition to the Director under 37 CFR § 1.181 filed August 4, 2005. The petition is treated under 37 CFR § 1.181(a)(1), invoking supervisory authority of the Director.

The Petition is **GRANTED-IN-PART**.

Petitioner states that Appellant's brief was filed on March 7, 2005 and that to date, an Examiner's Answer has not been received. Petitioner requests that the Director of Patents and Trademarks ('Director') exercise his supervisory authority and issue a written Examiner's Answer in the subject application within thirty (30) days.

Petitioner's request will be treated as a request for expedited handling in accordance with MPEP §708.01.

A review of the recent file activity reveals that a final Office action was mailed on April 28, 2004, rejecting all pending claims.

On October 7, 2004, appellants filed a Notice of Appeal and a response to the outstanding final Office action.

Appellants filed a 97 page brief on March 7, 2005.

MPEP §708.01 [R-2] List of Special Cases, states in part:...

> Certain procedures by the examiners take precedence over actions even on special cases. For example, all papers typed and ready for signature should be completed and mailed.
>
> All issue cases returned with a "Printer Waiting" slip must be processed and returned within the period indicated.
>
> Reissue applications, particularly those involved in stayed litigation, should be given priority.
>
> Applications in which practice requires that the examiner act within a set period, such a 2 months after appellants brief to furnish the examiner's answers (MPEP § 1208), necessarily take priority over special cases without specific time limits. [emphasis added]

MPEP §1208 Examiner's Answer, states in part:

APPEAL CONFERENCE...

> An appeal conference is mandatory in all cases in which an acceptable brief (MPEP § 1206) has been filed. However, if the examiner charged with the responsibility of preparing the examiner's answer reaches a conclusion that the appeal should not go forward and the supervisory patent examiner (SPE) approves, then no appeal conference is necessary...
> The examiner should furnish the appellant with a written statement in answer to the appellant's brief within 2 months after the receipt of the brief by the examiner. [emphasis added]

In accordance with MPEP §§ 708.01 and 1208, the subject application should have been given precedence and action taken within two months of receipt of appellant's brief. Petitioner is correct in that a response to the brief has not yet been mailed.

Therefore, the examiner is directed to take up for action the subject application, in the appropriate order for "special" applications, as set forth and in accordance with MPEP §708.01.

The request for expedited action is **Granted**.

In accordance with MPEP §1208, an appeal conference is mandatory in all cases. The outcome of that conference may result in other action such as reopening of prosecution or even the allowance of the application. In addition, appellants' 97 page brief could require additional time from the examiner and/or conferees to address each of the arguments raised in appellants' brief, as compared to other typical appeal briefs, in order to insure that all issues have been properly addressed.

Therefore, regarding petitioner's request that the Office provide a written Examiner's Answer in response to Appellants 97 page brief, and to do so within thirty (30) days, is **Denied**. The examiner will be required to pick up the subject application for expedited processing, but will not be limited in the amount of time required to address all issues before a conference panel, or in presentation of the Office's position in an Examiner's answer, should the conference panel agree on that course of action.

In regard to petitioner's "Memorandum In Support Of Applicants' Petition To The Director Under 37 C.F.R. §1.181", this addendum to applicants' petition is dismissed as moot. As stated above, petitioner's request that the application be handled in an expeditious manner due to the submission of appellants' brief, has been granted in accordance with MPEP §708.01 and thus the various issues raised in the addendum do not provide any further relevance.

The application file will be forwarded to the examiner for consideration of the After Final response filed October 7, 2004 and the Appeal Brief filed March 7, 2005. Appropriate action will be taken in due course.

Andrew Faile, Director
Technology Center 2600
Communications

NOTICE RE: CERTIFICATES OF CORRECTION

DATE 08/23/02 Paper No.: 19

TO : Supervisor, Art Unit 1600 1642

SUBJECT : Certificate of Correction Request in Patent No.: 6113898

A response to the following question is requested with respect to the accompanying request for a cert of correction.

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

PLEASE COMPLETE THIS FORM AND RETURN WITH FILE, WITHIN 7 DAYS, TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922 PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correctic placing a check mark (+) in the box that reflects your decision, which corresponds to the question che above.

☑ YES ☐ NO ☐ Comments below

☑ Comments: RECITED SEQUENCES CONTAIN ONE ENCODE SUBJECT ANTIBODY POLYPEPTIDE SEQUES

PHILLIP GAMBEL

10/24/02

Christina Chan 1644

Supervisor Art Unit

PTOL-306 (REV. 2/02) U.S. DEPARTMENT OF COMMERCE Patent and Trademark

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 05-03

Paper No. 62

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

MAY 02 2003

OFFICE OF PETITIONS

In re Application of	:
Gray et al.	: DECISION DISMISSING
Application No. 08/487,701	: PETITION
Filed: 7 June, 1995	:
Atty's Docket No. 028723-020	:

This is a decision on the petition filed under 37 CFR 1.182 on 13 February, 2001, requesting that a terminal disclaimer filed in the above-identified application be withdrawn. The Office apologizes for the delay in responding to the present petition.

The petition is dismissed.

The present petition requests that a terminal disclaimer filed on 6 August, 1999 be withdrawn.

Upon review of the basis for obviousness-type double patenting which was previously overcome with a Terminal Disclaimer in the present application to disclaim U.S. Patent No. 5,447,841; the Examiner has set the following determination forth. Even though claim amending has occurred in the present application; said amending has not sufficiently distinguished many of the claims in the present application from those in U.S. Patent No. 5,447,841 to nullify or remove the requirement for the Terminal Disclaimer which previously disclaimed Patent No. 5,447,841. If said Terminal Disclaimer were to be withdrawn, it would be deemed necessary to reopen prosecution to re-apply an obviousness-type double patenting rejection against at least claim 48 and others in the present application; based on U.S. Patent No. 5,447,841.

For the reasons stated above, withdrawal or nullification of the Terminal Disclaimer is not appropriate, and the petition is **DISMISSED**.

The application file is being forwarded to Technology Center 1600 for further processing.

Telephone inquires should be directed to the undersigned at 703.308.6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5633875
Issue Date: May 27,1997
Application No. 08487735
Filed: June 7,1995
Attorney Docket No. RD-23.379

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 10,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 10,2006. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5633875	1997-05-27	08487735	1995-06-07	RD-23,379-9

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kenneth R. Glick/	Date (YYYY-MM-DD)	2006-11-09
Name	KENNETH R. GLICK	Registration Number	28612

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 23 2007

Deborah A. Somerville
KENYON & KENYON
One Broadway
New York, NY 10004

In re Patent Term Extension Application of	:
U.S. Patent No. 6,217,866	:
Issue Date: April 17, 2001	: Decision on Petition to
U.S. Application No. 08/487,761	: Stay Grant of Certificate in Patent
PTE Filing Date: April 9, 2004	: Term Extension Application
For: Monoclonal Antibodies Specific To Human Epidermal Growth Factor Receptor and Therapeutic Methods Employing Same	:

The above-identified application has been forwarded to the Office of Patent Legal Administration in the United States Patent and Trademark Office (the Office) for consideration of a petition titled "Request for Suspension and Deferral of Further Action on Applicant's Request for Patent Term Extension Until After Final Resolution of Patent Ownership" for U.S. Patent No. 6,217,866, which was filed on November 1, 2006. The request for suspension and deferral of further action is treated as a petition under 37 C.F.R. § 1.182.

The petition is granted for a period of 6 months from the mailing date of this decision.

Background and Analysis

On September 5, 2006, the Food and Drug Administration (FDA) informed the Office that the regulatory review period determination set forth in the February 17, 2006, issue of the Federal Register regarding the patent term extension application for U.S. Patent No. 6,217,866 which claims the human biologic Erbitux® was final.

On November 1, 2006, Petitioner informed the Office that the inventorship of U.S. Patent No. 6,217,866 has been changed by a decision of the U.S. District Court for the Southern District of New York in the case of *Yeda Research and Development Company Ltd. v. ImClone Systems Inc. and Aventis Pharmaceuticals Inc.*, 443 F. Supp. 2d 570 (S.D.N.Y. 2006).

Petitioner now requests a stay of the processing of its PTE application, specifically, a stay of the issuance of the certificate of extension so that the inventorship and ultimately, ownership of the patent, can be resolved by the Court of Appeals for the Federal Circuit.

The Office is treating the present petition as falling under 37 C.F.R. § 1.182, which addresses all situations not specifically provided for in other regulations. Further, the Office analogizes the request

made by Petitioner to requests for staying action in patent applications and for deferring issuance of a patent filed under 37 C.F.R. § 1.103 and 37 C.F.R. § 1.314, respectively. The standard for granting requests under both 37 C.F.R. § 1.103 and 37 C.F.R. § 1.314 is good and sufficient cause. Accordingly, the Office shall apply that same good and sufficient cause standard to the present petition under 37 C.F.R. § 1.182.

As Petitioner accurately points out, ownership of a patent is relevant to a request for patent term extension because of the required relationship between the patentee and the FDA marketing applicant as set forth in 35 U.S.C. § 156(d)(1). Since the current status of inventorship with the ultimate question of ownership in dispute and before a Circuit Court of Appeals, a stay in the proceedings of the patent term extension application in order to determine inventorship, and ultimately, ownership of the patent, appears to constitute good and sufficient cause. Thus, a stay is granted for a time period of 6 months from the mailing date of this decision.

Conclusion

The petition under 37 C.F.R. § 1.182 is granted for a period of 6 months from the mailing date of this decision.

At the end of 6 months from the mailing date of this decision, a renewed petition for an additional stay may be filed. A complete renewed petition should include a declaration by petitioner setting forth the briefing and argument schedule to the extent known by petitioner and their counsel so that the Office can assess the need for a further stay of action in the present patent term extension application.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 37 C.F.R. § 1.17(f). The required petition fees have been received for the present petition as per the express authorization to charge deposit account **11-0600** in the request for stay filed November 1, 2006.

Telephone inquiries with regard to this communication should be directed to Mary C. Till at (571) 272-7755.

Mary C. Till
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5566052	1996-10-15	08/487,771	1995-06-08	22493-154

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Jean-Pierre FORTIN/	Date (YYYY-MM-DD)	2009-11-02
Name	Jean-Pierre FORTIN		
Enter Reel and Frame Number		Remove	
Reel Number	007958	Frame Number	0206
Enter Reel and Frame Number		Remove	
Reel Number	007942	Frame Number	0749
Enter Reel and Frame Number		Remove	
Reel Number	010567	Frame Number	0001
Enter Reel and Frame Number		Remove	
Reel Number	011195	Frame Number	0706
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5566052
Issue Date: October 15,1996
Application No. 08487771
Filed: June 8,1995
Attorney Docket No. 9

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 5,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DW Jun-06

ELECTRONIC DATA SYSTEMS CORPORATION
5400 LEGACY DR., M/S H3-3A-05
PLANO TX 75024

COPY MAILED
JUN 1 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Dale H. Dentlinger	:	DECISION ON PETITION
Application No. 08/487,813	:	
Filed: 7 June, 1995	:	
Attorney Docket No. 014208.1190	:	
(96-95-001)	:	

This is a decision on the petition filed on 10 April, 2006, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned on 18 February, 2006, for failure to timely submit corrected drawings in response to the

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

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

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

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

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

Notice of Allowability mailed on 17 February, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment mailed on 28 March, 2006.

The petition lacks the terminal disclaimer required by 37 CFR 1.137(b)(4) and (d).

37 CFR 1.137(d), states:

> (d) Terminal disclaimer.
>
> (1) Any petition to revive pursuant to this section in a design application must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any petition to revive pursuant to this section in either a utility or plant application filed before June 8, 1995, must be accompanied by a terminal disclaimer and fee as set forth in § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of:
>
> (i) The period of abandonment of the application; or
>
> (ii) The period extending beyond twenty years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed.
>
> (2) Any terminal disclaimer pursuant to paragraph (d)(1) of this section must also apply to any patent granted on a continuing utility or plant application filed before June 8, 1995, or a continuing design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.

Since the present application was filed on 7 June, 1995, prior to 8 June, 1995, a terminal disclaimer, and the required fee, in accordance with 37 CFR 1.137(d) is required.

A copy of the terminal disclaimer form is enclosed for petitioner's use.
The address in the petition is different than the address of record. A copy of this decision will be sent to the address in

the petition. All future correspondence will be mailed solely to the address of record, however.

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

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

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTCH: Form PTO/SB/63

Encl: BAKER BOTTS L.L.P.
2001 ROSS AVENUE, SUITE 600
DALLAS TX 75201

PTO/SB/63 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO ACCOMPANY PETITION

Docket Number (Optional)

In re Application of:

Name:

Application Number:

Filed:

For:

The owner*, _____ of _____ percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the above-identified application is a utility or plant application, the lesser of: (a) the period of abandonment of the application; or (b) the period extending beyond twenty years from the date on which the above-identified application was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 1995, or a design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.
2. ☐ The undersigned is an attorney or agent of record. Registration Number_____.

_____	_____
Signature	Date
_____	_____
Typed or Printed Name	Telephone Number

☐ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ELECTRONIC DATA SYSTEMS CORPORATION
5400 LEGACY DR., M/S H3-3A-05
PLANO TX 75024

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AUG 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Dale H. Dentlinger	:	DECISION ON PETITION
Application No. 08/487,813	:	
Filed: 7 June, 1995	:	
Attorney Docket No. 014208.1190	:	
(96-95-001)	:	

This is a decision on the renewed petition filed on 26 June, 2006, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 18 February, 2006, for failure to timely submit corrected drawings in response to the Notice of Allowability mailed on 17 February, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment mailed on 28 March, 2006. The petition filed on 10 April, 2006, was dismissed on 12 June, 2006.

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

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

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

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

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

Receipt of the Terminal Disclaimer is acknowledged. The Terminal Disclaimer has been made of record.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT F C MMERCE
Patent and Trademark ffice

Address : COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	59

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted § 1.84 (FILED NOVEMBER 3, 2000)

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

MPW

MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/2/06

TO SPE OF : ART UNIT 1653

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/488960 Patent No.: 7008783

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

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

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

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

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

Comments: _____

SPE

1657 (Previously 1653)
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HARTMAN & HARTMAN, P.C.
552 EAST 700 NORTH
VALPARAISO IN 46383

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of
Lesage
Application No. 08/489,795
Filing Date: April 28, 2000 (CPA)
For: MODULAR HEAT EXCHANGER HAVING A BRAZED CORE AND METHOD FOR FORMING

: Decision on Petition for
: Patent Term Adjustment

The above-identified application has been forwarded to the undersigned for consideration on a petition under 35 U.S.C. 154(b) and (c) and 37 CFR 1.701, titled "Petition Under 37 CFR 1.181" received on October 25, 2006. See 35 U.S.C. § 154(b)[1] and 37 CFR §§ 1.701 and 1.702. The petition is being treated as a petition under 37 CFR 1.182, as 37 CFR 1.701 does not provide for the relief argued for as noted by Petitioner on page 4 of his petition. The application is being reviewed to correct the patent term extension information printed on the Notice of Allowance and Issue Fee Due mailed on September 14, 2006, which incorrectly indicated that the patent term extension is 587 days.

The petition under 37 CFR 1.182 is dismissed.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The request is dismissed for failure to pay the required fee under 37 CFR 1.18(e). If applicant has evidence that the fee was paid, applicant should submit a request for reconsideration along with the evidence within two months of

[1] 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

patent issuance. If applicant does not have evidence that the fee was properly paid, he should submit a petition under either 37 CFR 1.182 or 1.183 with the required fee within two months of patent issuance.

With respect to petitioners arguments concerning the eligibility of patent term adjustment provisions, see *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 FR 56366 (Sept. 18, 2000) 1239 *Off. Gaz. Pat. Office Notices* 14 (Oct. 3, 2000).

Issue of the above-identified application was delayed due to appellate review by the Board of Appeals and Interferences, and the above-identified application has been allowed after a decision of the Board reversing an adverse determination of patentability.

A Notice of Appeal was filed in the above-identified application on December 5, 1996. On July 14, 1998, the Board of Appeals and Interferences affirmed-in-part the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal of an adverse decision of patentability, the patent to issue from the application is entitled to an extension of the patent term. The period of delay in the above-identified application is the period beginning on December 5, 1996, the date that the Notice of Appeal was filed, and ending on July 14, 1998, the date of the final decision in favor of the applicant. Three years after the filing date of the application is June 13, 1998. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is **32 days**, not 587 days, as printed on the Notice of Allowance, which is the period from June 13, 1998 to July 14, 1998, including the beginning and end dates.

A Continuing Prosecution Application (CPA) under 37 CFR 1.53(d) was filed on April 28, 2000. A CPA is a request to expressly abandon the prior application (application No. 08/489,795 filed on June 13, 1995) as of the filing date of the CPA. See 37 CFR 1.53(d)(2)(v). A CPA is a new application and the filing date of a CPA is the date on which a request on a separate paper for a CPA is filed (i.e. April 28, 2000). See 37 CFR 1.53(d)(2). Since the CPA was filed on April 28, 2000, the 32 days of patent term extension do not carry over to the continuing application.

A Notice of Appeal was filed in the above-identified application on August 13, 2001. On April 16, 2003, the Board of Patent Appeals and Interferences (BPAI) remanded the application to the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a remand by a panel of the BPAI to the Examiner, the patent to issue from the application is entitled to an extension of the patent term. [1] The period of delay in the above-identified application is the period beginning on August 13, 2001, the date that the Notice of Appeal was filed and ending on April 16, 2003, the date of the remand by a panel of

[1] Revision of Patent Term Extension and Patent Term Adjustment Provisions, 78 FR 21704, 21705 (April 22, 2004), 1282 Off. Gaz. Pat. Office Notices 100 (May 18, 2004) (final rule).

the BPAI, which is a final decision in favor of the applicant. Three years after the earliest effective filing date of the application is June 13, 1998. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the first period of extension is **612-days**, the period from August 13, 2001 to April 16, 2003, including the beginning and end dates.

The patent, if issued, will include an indication that the patent term is extended by **612 days**

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,123,739	2000-09-26	08/492,266	1995-06-19	W7115.0059

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles E. Miller/	Date (YYYY-MM-DD)	2006-10-16
Name	Charles E. Miller	Registration Number	24576

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6123739
Issue Date: September 26,2000
Application No. 08492266
Filed: June 19,1995
Attorney Docket No. 7115-023

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 16,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 16,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 23

DAVID E. BROOK
HAMILTON, BROOK, SMITH & REYONLDS
2 MILITIA DRIVE
LEXINGTON, MA 02173

COPY MAILED

JUL 2 7 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Paul D. Ponath, et al. :
Application No. 08/494,093 : NOTICE
Filed: June 23, 1995 :
Attorney Docket No. LKS95-02 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. No. 97-1128, -1280, -1453, 1998 U.S. App. LEXIS 21409, at *30 (Fed. Cir. Sept. 1, 1998). Therefore, your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being returned to Technology Center 1600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5757474	1998-05-26	08496061	1995-06-28	NREL 94-16

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul J. White/	Date (YYYY-MM-DD)	2007-03-06
Name	Paul J. White	Registration Number	30436

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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UNITED STATES 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. 5757474
Issue Date: May 26,1998
Application No. 08496061
Filed: June 28,1995
Attorney Docket No. NREL/94-16

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 6,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 6,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	08/496,529
Filing Date	June 29, 1995
Issued	December 1, 1998
First Named Inventor	Hisashi OHTANI
Group Art Unit	2812
Examiner Name	Brendan Mee
Total Number of Pages in This Submission: 12	Attorney Docket Number: 740756-1370

ENCLOSURES *(check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
  - ☐ Amendment under 37 C.F.R 1.111
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
  - ☐ Information Disclosure Statement
  - ☐ Form PTO-1449/w references
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Assignment Papers *(for an Application)*
  - ☐ Submission of Substitute Drawing(s)
  - ☐ Replacement Sheet
- ☐ Declaration and Power of Attorney
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Application Data Sheet
- ☐ Request for Corrected Filing Receipt with Enclosures
- ☒ Other Enclosure(s) *(please identify below)*:
  1. **Request For Certificate Of Correction – Office Mistake**
  2. **Petition Under 37 CFR 3.81(b)**
  3. **Part B – Issue Fee Transmittal (Copy)**
  4. **Notice of Recordation of Assignment Document (Copy)**

Remarks

☒ The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 19-2380 for the above identified docket number.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	Anthony J. Canning, Reg. No. 62,107 Nixon Peabody LLP 401 9th Street, N.W. Suite 900 Washington, D.C. 20004-2128
Signature	
Date	August 26, 2008

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop _____, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

August 26, 2008
Date

Signature
Lynette E. James
Typed or printed name

Best Available Copy

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AUG 26 2008

Docket No. 740756-1370

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of	)	
Hisashi OHTANI et al.	)	Art Unit: 2812
Serial No.: 08/496,529	)	Examiner: Brendan Mee
Patent No.: 5,843,833	)	
Issued: December 1, 1998	)	
Filed: June 29, 1995	)	Date: August 26, 2008

For: METHOD FOR PRODUCING SEMICONDUCTOR DEVICE

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-8300 on August 26, 2008.

Lynette E. James

REQUEST FOR CERTIFICATE OF CORRECTION – OFFICE MISTAKE

Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reviewing the above-identified patent, a USPTO printing error of a typographical nature was discovered therein requiring correction in order to conform to the Official Record in the application. None of the below corrections should be considered substantive in nature, but instead merely correct obvious errors therein.

The errors noted are set forth on the attached copy of Form PTO-1050 (Rev. 3-82) in the manner required by the Commissioner's Notice.

Specifically, upon reviewing the front page of the issued patent the following error was noted:

The Assignee's name (i.e., Semiconductor Energy Laboratory Co., Ltd.) was misspelled (i.e., Semiconductor Energy Laboratroy Co., Ltd.).

11107157.1

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AUG 26 2008

This misspelling originally occurred as a result of a USPTO printing error of U.S. Patent No. 5,843,833.

As provided by the Notice of Recordation of Assignment Document for Application No. 08/496,529 (i.e., Reel/Frame 7574/0091) dated June 29, 1995, the assignment was submitted for recordation before the issuance of U.S. Patent No. 5,843,833 on December 1, 1998, and properly assigned interest to Semiconductor Energy Laboratory Co., Ltd.

Additionally, Applicants properly spelled Assignee's name on the Issue Fee Transmittal form (PTOL-85B) submitted February 6, 1998.

Thus, for the reasons stated in the accompanying Petition under 37 C.F.R. 3.81(b), Patentee respectfully requests that --Semiconductor Energy Laboratroy Co., Ltd.-- be deleted from the front page of U.S. Patent No. 5,842,833, and be replaced with --Semiconductor Energy Laboratory Co., Ltd.--

Since the misspelling was a result of an error on the part of the USPTO, no fees associated with the Certificate of Correction are believed to be due at this time.

However, the Commissioner is hereby authorized to charge any fees connected with this filing which may be required now, or credit any overpayment to Deposit Account No. 19-2380.

Respectfully submitted,

Anthony J. Canning
Registration No. 62,107

NIXON PEABODY LLP
401 9th Street, N.W.
Suite 900
Washington, DC 20004-2128
Phone: (202) 585-8000
Fax: (202) 585-8080

JLC/AJC/lej

11107157.1

PAGE 3/12 * RCVD AT 8/26/2008 5:40:00 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/37 * DNIS:2738300 * CSID:866 741 0075 * DURATION (mm-ss):01-50

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AUG 26 2008

Docket No. 740756-2054

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of	)	
Hisashi OHTANI et al.	)	Art Unit: 2812
Serial No. 08/496,529	)	Examiner: Brendan Mee
Patent No. 5,843,833	)	
Issued: December 1, 1998	)	
Filed: June 29, 1995	)	Date: August 26, 2008

For: METHOD FOR PRODUCING SEMICONDUCTOR DEVICE

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-8300 on August 26, 2008.

Lynette E. James

PETITION UNDER 37 CFR 3.81(b)

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

Sir:

Applicants hereby petition that the requirements of 37 CFR 3.81 be waived to enable correction of the USPTO's error in the misspelling of the Assignee's name as "Semiconductor Energy Laboratroy Co., Ltd." on the front page of U.S. Patent No. 5,843,833. A copy of the request for issuance of a Certificate of Correction is being submitted simultaneously herewith.

In particular, an assignment was filed for Application No. 08/496,529 recorded on June 29, 1995 and recorded at Reel/Frame 7574/0091 which has the proper spelling of the Assignee's name. Additionally, the Assignee's name was properly spelled on the Issue Fee Transmittal form (PTOL-85B) submitted February 6, 1998. The error for which correction is herein requested occurred as a printing error by the USPTO when the Assignee's name was misspelled on the front page of the above-referenced patent. This error is typographical in nature.

PAGE 4/12 * RCVD AT 8/26/2008 5:40:00 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/37 * DNIS:2738300 * CSID:866 741 0075 * DURATION (mm-ss):01-50

08/27/2008 HMARZII 00000020 192380 08496529
01 FC:1464 130.00 DA

Best Available Copy

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CENTRAL FAX CENTER
AUG 26 2008

U.S. Patent No. 5,843,833
Application No. 08/496,529
Docket No.740756-1307

The proper spelling of the Assignee's name is important to those reviewing issued patents to designate the true owners of a particular patent. Specifically, it is important for the patentee to properly receive business inquiries from interested parties. It is also important to the interested public so that the proper owners are recognized and available for business discussions, for instance, when the subject patent is noted during a search. Without the requested Certificate of Correction, the patentee could lose potential business opportunities and the public could be misinformed. Consequently, the patentee respectfully requests that the Certificate of Correction be granted in this patent.

A copy of the recorded assignment of Application No. 08/496,529 and the Issue Fee Transmittal form (PTOL-85B) for the above-referenced patent are submitted herewith as true and accurate proof of the Assignee's name.

The Petition Fee amount of $130.00 under 37 C.F.R. 1.117(h) and any additional fees or overages due in connection with this patent and the requested actions should be applied to Deposit Account No. 19-2380 (740756-1370).

Respectfully submitted,

Anthony J. Canning
Registration No. 62,107

Nixon Peabody LLP
401 9th St., N.W.
Suite 900
Washington, DC 20004
Phone: (202)-585-8000
Fax: (202) 585-8080

11127301.1

PAGE 5/12 * RCVD AT 8/26/2008 5:40:00 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/37 * DNIS:2738300 * CSID:866 741 0075 * DURATION (mm-ss):01-50

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 5,843,833

ISSUED : December 1, 1998

INVENTOR(S) : Hisashi OHTANI 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 front page of the patent, the Assignee's name "Semiconductor Energy Laboratroy Co., Ltd." should be deleted, and replaced with --Semiconductor Energy Laboratory Co., Ltd.--.

MAILING ADDRESS OF SENDER:
NIXON PEABODY LLP
401 9th Street, N.W., Suite 900
Washington, D.C. 20004-2128

PATENT NO. 5,843,833

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

11127303.1

Best Available Copy

PART B—ISSUE FEE TRANSMITTAL

Complete and mail this form, together with app. ·is fees, to: Box ISSUE FEE
Assistant Commissioner for Patents
Washington, D.C. 20231

RECEIVED
CENTRAL FAX CENTER
AUG 26 2008

MAILING INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

D1M1/1106
SIXBEY FRIEDMAN LEEDOM & FERGUSON
2010 CORPORATE RIDGE
SUITE 800
MCLEAN VA 22102

Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

Certificate of Mailing

I hereby certify that this Issue Fee Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

Cameron S. Gilligan (Depositor's name)
Cameron S. Gilligan (Signature)
February 6, 1998 (Date)

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/496,529	06/29/95	019	MEE, B 1107	11/06/97

First Named Applicant: OHTANI, HISASHI

TITLE OF INVENTION: METHOD FOR PRODUCING SEMICONDUCTOR DEVICE

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
0756-1370	438-426.000	T88	UTILITY	NO	$1320.00	02/06/98

1. Change of correspondence address or indication of " Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.
   - ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
   - ☐ "Fee Address" indication (or "Fee Address" indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
   1 Sixbey, Friedman, Leedom, & Ferguson, P.C.
   2 Gerald J. Ferguson, Jr.
   3 Jeffrey L. Costellia

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
   PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.
   (A) NAME OF ASSIGNEE
   Semiconductor Energy Laboratory Co., Ltd.
   (B) RESIDENCE: (CITY & STATE OR COUNTRY)
   Kanagawa-ken, JAPAN
   Please check the appropriate assignee category indicated below (will not be printed on the patent)
   ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):
   ☒ Issue Fee
   ☒ Advance Order - # of Copies 10

4b. The following fees or deficiency in these fees should be charged to:
   DEPOSIT ACCOUNT NUMBER 19-2380
   (ENCLOSE AN EXTRA COPY OF THIS FORM)
   ☐ Issue Fee
   ☐ Advance Order - # of Copies

The COMMISSIONER OF PATENTS AND TRADEMARKS is requested to apply the Issue Fee to the application identified above.

(Authorized Signature) Jeffrey L. Costellia Reg. No. 35,483 (Date) 2/6/98

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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DOCKETED

TRANSMIT THIS FORM WITH FEE

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0756-1370 Mg7

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MARCH 30, 1996

PTAS

100048072A

SIXBEY, FRIEDMAN, LEEDOM & FERGUSON, PC
GERALD J. FERGUSON, JR.
2010 CORPORATE RIDGE
SUITE 600
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, NORTH TOWER BUILDING, SUITE 10C35, WASHINGTON, D.C. 20231.

RECORDATION DATE: 06/29/1995

REEL/FRAME: 7574/0091
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
OHTANI, HISASHI

DOC DATE: 06/22/1995

ASSIGNOR:
FUKUNAGA, TAKESHI

DOC DATE: 06/22/1995

ASSIGNOR:
MIYANAGA, AKIHARU

DOC DATE: 06/22/1995

ASSIGNEE:
SEMICONDUCTOR ENERGY LABORATORY CO., LTD.
398, HASE, ATSUGI-SHI
KANAGAWA-KEN 243, JAPAN

SERIAL NUMBER: 08496529

FILING DATE: 06/29/1995

PATENT NUMBER:

ISSUE DATE:

RECEIVED
APR - 4 1996

JACQUELINE MOORE, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

MRD 6-95 4000 581 AYD

MAIL ROOM JUN 29 1995 PAT. & TRADEMARK OFF.

08-22-1995

08/496529

100048072

RECORDATION FORM COVER SHEET

Docket: 0756-1370

To the Honorable Commissioner of Patent and Trademarks. Please record the attached original documents or copy thereof.

1. Name of conveying parties: Hisashi OHTANI, Takeshi FUKUNAGA, Akiharu MIYANAGA
Additional name(s) of conveying party(ies) attached? [ ] Yes [X] No

2. Name and address of receiving party(ies):
Name: Semiconductor Energy Laboratory Co., Ltd.
Street Address: 398, Hase, Atsugi-shi, Kanagawa-ken 243 Japan
City _____ State _____ ZIP _____
Additional name(s) & addresses(es) attached? ___ Yes ___ No

3. Name of Conveyance:
[X] Assignment [ ] Merger
[ ] Security Agreement [ ]Change of Name
[ ] Other _____
Execution Date: June 22, 1995

4. Application number(s) or patent number(s):
If this document is being filed together with a new application, the execution date of the application is: June 22, 1995
Title: METHOD FOR PRODUCING SEMICONDUCTOR DEVICE

A: Patent Application No.(s) B: Patent No.(s)
Additional numbers attached? ___ Yes ___ No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: SIXBEY, FRIEDMAN, LEEDOM & FERGUSON, P.C.
Street Address: 2010 Corporate Ridge, Suite 600
City: McLean State: Virginia ZIP 22102

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): $40.00
[X] Enclosed
[ ] Authorized to be changed to deposit account

8. Deposit Account Number: _____
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Gerald J. Ferguson, Jr.
Name of Person Signing

Signature

310 CS 08/01/95 08/496529
1 581 40.00 CH

8/29/95
Date

Total number of pages including cover sheet, attachments, and document: 3

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SIXBEY, FRIEDMAN, LEEDOM & FERGUSON, P.C.
United States Patent Rights

ATTORNEY DOCKET NO.
0756-1370

ASSIGNMENT

Serial No. _____ Filed _____

Insert Name(s) of Inventor(s)

WHEREAS, Hisashi OHTANI
Takeshi FUKUNAGA
Akiharu MIYANAGA

Insert Title of Invention

(hereinafter designated as the undersigned) has (have) invented certain new and useful improvements in Method For Producing Semiconductor Device

Insert Date of Signing of Application

for which an application for Letters Patent of the United States of America has been executed by the undersigned on June 22, 1995; and

Insert Name of Assignee

WHEREAS, Semiconductor Energy Laboratory Co., Ltd.

Insert Address of Assignee

of 398, Hase, Atsugi-shi, Kanagawa-ken, 243 Japan

its heirs, successors, legal representatives and assigns (hereinafter designated as the Assignee) is desirous of acquiring the entire right, title and interest in and to said invention and in and to any Letters Patent(s) that may be granted therefor in the United States of America;

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) to the undersigned in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration, the undersigned has (have) sold, assigned and transferred, and by these presents do sell, assign and transfer unto said Assignee the full and exclusive right to the said invention in the United States of America and its territories, dependencies and possessions and the entire right, title and interest in and to any and all Letters Patent(s) which may be granted therefor in the United States of America and its territories, dependencies and possessions, and in and to any and all divisions, reissues, continuations and extensions thereof for the full term or terms for which the same may be granted.

Best Available Copy

The undersigned agree(s) to execute all papers necessary in connection with this application and any continuing, divisional or reissue applications thereof and also to execute separate assignments in connection with such applications as the Assignee may deem necessary or expedient.

The undersigned agree(s) to execute all papers necessary in connection with any interference which may be declared concerning this application or any continuation, division or reissue thereof or Letters Patent(s) or reissue patent issued thereon and to cooperate with the Assignee in every way possible in obtaining and producing evidence and proceeding with such interference.

The undersigned agree(s) to execute all papers and documents and to perform any act which may be necessary in connection with claims under or provisions of the International Convention for the Protection of Industrial Property or similar agreements.

The undersigned agree(s) to perform all affirmative acts which may be necessary to obtain a grant of a valid United States patent(s) to the Assignee and to vest all rights therein hereby conveyed to said Assignee as fully and entirely as the same would have been held by the undersigned if this Assignment and sale had not been made.

The undersigned hereby authorize(s) and request(s) the Commissioner of Patents and Trademarks to issue any and all Letters Patents of the United States of America resulting from said application or any division or divisions or continuing or reissue applications thereof to the said Assignee, as Assignee of the entire interest, and hereby convenants that he has (they have) the full right to convey the entire interest herein assigned, and that he has (they have) not executed, and will not execute, any agreement in conflict herewith.

The undersigned hereby grant(s) the law firm of Sixbey, Friedman, Leedom & Ferguson, P.C. the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office for recordation of this document.

In witness whereof, this Assignment has been executed by the undersigned on the date(s) opposite the undersigned name(s).

Date 06/22/1995, Name of Inventor 大谷 久 (signature) (SEAL)
Hisashi OHTANI

Date 06/22/1995, Name of Inventor Takeshi Fukunaga (signature) (SEAL)
Takeshi FUKUNAGA

Date 06/22/1995, Name of Inventor Akiharu Miyanaga (signature) (SEAL)
Akiharu MIYANAGA

Date _____, Name of Inventor _____ (signature) (SEAL)

Date _____, Name of Inventor _____ (signature) (SEAL)

(This assignment should preferably be acknowledged before a United States Consul or Notary Public. If not, then the execution by the Inventor(s) should be witnessed by at least two other persons who should sign here.)

Witness _____ (name) _____ (signature)

Witness _____ (name) _____ (signature)

Witness _____ (name) _____ (signature)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 30 2007

Charles E. Van Horn
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Ave, NW
Washington DC 20001-4413

Re: Patent Term Extension Application for U.S. Patent No. 5,795,864

ACKNOWLEDGMENT OF ELECTION OF U.S. PATENT NO. 5,364,842 AND EXPRESS WITHDRAWAL OF APPLICATION FOR PATENT TERM EXTENSION FOR U.S. PATENT NO. 5,795,864

This is in response to the election of U.S. Patent No. 5,364,842 for Extension of Patent Term under 35 U.S.C. 156 filed April 17, 2007, and express withdrawal of the application for patent term extension for U.S. Patent No. 5,795,864 (PRIALT® (ziconotide)).

The withdrawal of the application is hereby acknowledged and the application is dismissed.

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

By mail: Mail Stop Hatch-Waxman PTE
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-0100

Telephone inquiries related to this determination should be directed to the undersigned at (571) 272-7755. E-mail inquiries should be directed to mary.till@uspto.gov.

Mary C. Till
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Office of Regulatory Policy
HFD - 7
5600 Fishers Lane (Rockwall II Rm. 1101)
Rockville, MD 20857

Attention: Beverly Friedman

RE: PRIALT® (ziconotide)
FDA Docket No.: 2005E-0246

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5579541	1996-12-03	08499550	1995-07-07	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Edwin D. Schindler/	Date (YYYY-MM-DD)	2006-12-02
Name	Edwin D. Schindler	Registration Number	31459

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5579541
Issue Date: December 3,1996
Application No. 08499550
Filed: July 7,1995
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 2,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 2,2006 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,579,722	2003-06-17	08/500,277	1995-07-10	76653-US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph T Grunkemeyer/	Date (YYYY-MM-DD)	2007-07-12
Name	Joseph T Grunkemeyer	Registration Number	46746

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6579722
Issue Date: June 17,2003
Application No. 08500277
Filed: July 10,1995
Attorney Docket No. 76.653

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed July 12,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 12,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph P. D'Angelo
20 NW 181st Street
Miami, FL 33169

COPY MAILED

NOV 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Joseph P. D'Angelo	:	DECISION DISMISSING PETITION
Application No. 08/500,535	:	UNDER 37 CFR 1.181
Filed: July 11, 1995	:	
Title: Saliva Sample Collection System	:	

This is a decision on the petition under 37 CFR 1.181, filed April 7, 2006, to withdraw the holding of abandonment.

On November 5, 2003, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application became abandoned on February 6, 2004. On July 14, 2004, the Office mailed a Notice of Abandonment.

In the present petition, petitioner, Joseph P. D'Angelo, requested that the Office withdraw the holding of abandonment because he did not receive the nonfinal Office. Specifically, petitioner stated that the law firm of Lerner & Greenberg filed the original application on behalf of petitioner. Thereafter, an interference proceeding was declared. Petitioner asserted that he represented himself in the interference proceeding because Lerner & Greenberg withdrew from representing him in 1999. Petitioner stated that on November 5, 2003, the Office mailed a nonfinal Office action to Lerner & Greenberg, 1200 S. Federal Hwy, Hollywood, FL 33020. Petitioner asserted that he was representing himself when the Office action was mailed. Furthermore, petitioner contended that he did not receive the nonfinal Office action nor did Lerner & Greenberg forward it to him. Moreover, petitioner averred that Lerner & Greenberg asserted to him that their records did not contain the nonfinal Office action. However, petitioner did not provide a statement from Lerner & Greenberg, indicating the firm did not receive the Office action. In support of petitioner's assertion that he did not receive the Office action of November 5, 2003, he stated that he reviewed his file and that it did not contain any Office action mailed in 2003. A copy of the file that petitioner maintained with regard to correspondence in relation to the present application accompanied the petition.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Initially, the Office notes that "[c]ounsel may not withdraw from a proceeding before the Board unless the Board authorizes such withdrawal." 37 CFR 41.5(c). There is no indication in the record that any registered patent attorney or agent from Lerner & Greenberg submitted a request to withdraw from

representation or that the Board authorized such a withdrawal. Furthermore, the Office notes that when an appointment or revocation of power of attorney is received for an application that is involved in an interference, it should be forwarded to the Service Branch of the Board of Patent Appeals and Interferences because all parties to the interference must be notified. MPEP 402.08. However, the file does not contain a revocation of power of attorney prior to March 17, 2006, and there is no indication that such was forwarded to the Service Branch. The record does reveal that petitioner was the Senior Party involved in the interference.

A review of the record indicates no irregularity in the mailing of the nonfinal Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the correspondence address of record, as it existed on November 5, 2003. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner (or petitioner if acting *pro se*), stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c). For example, if a three-month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office actions).

The USPTO mailed the nonfinal Office action of November 5, 2003, to Lerner & Greenberg, 1200 S. Federal Hwy, Hollywood, FL 33020, as that was the correspondence address of record on that date. Even if the Board of Patent Appeals mailed correspondence to or received correspondence from petitioner during the interference, it does not relief petitioner of the requirements of the rules regarding revocation of power of attorney and change of correspondence address. Pursuant to MPEP 601.03, a separate change of correspondence address notification must be filed in each application for which the person desires to receive communications from the Office. A change of correspondence address should be provided in a manner calling attention to the fact that a change of address is being made. Therefore, the Office does not normally recognize or deem it an instruction to change the correspondence address of record upon the mere inclusion, in a paper being filed for another purpose, of an address that is different from the previously provided correspondence address, without an indication that an address change is being made. MPEP 601.03

The record reveals that petitioner did not submit a revocation of the power of attorney to Lerner & Greenberg or change the correspondence address until March 17, 2006. The revocation of the power of attorney becomes effective on the date that the revocation is received in the Office. With the present petition, petitioner provided a statement that he did not receive the nonfinal Office action of November 5, 2003, as well as submitted a copy of his records in relation to the present application. However, this does not satisfy the required showing of non-receipt of the Office action because the USPTO did not mail the nonfinal Office action to petitioner. Presumably, the appointed registered patent practitioners

of Lerner & Greenberg would have been responsible for docketing all Office communications from the USPTO at the time of the mailing of the nonfinal Office action. Although petitioner asserted that Lerner & Greenberg indicated to him that their records did not contain the nonfinal Office action, petitioner must submit a copy of the firm's files and docket records with regard to this application for the relevant period, showing all replies docketed for a date three months from the mail date of the non-received nonfinal Office action as documentary proof of non-receipt of the Office communication. Additionally, petitioner must provide a statement from his legal representative at Lerner & Greenberg, attesting to the fact that, upon a search of their files and docket records, they did not locate the nonfinal Office action mailed in this application.

For the reasons stated, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**. A copy of the nonfinal Office action of November 5, 2003, accompanies this decision for petitioner's convenience.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment." Extensions of time are permitted under 37 CFR 1.136(a).

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.
>
> (2) The petition fee as set forth in 37 CFR 1.17(m), **an additional** $1,500.00 for a large entity or $750.00 for a small entity;
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Nonfinal Office action dated 11/5/03 (5 pages).

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.
08/500,535	07/11/1995	JOSEPH P. D ANGELO	F-7267-CIP2	3706

7590 11/05/2003

LERNER AND GREENBERG
1200 SOUTH FEDERAL HIGHWAY
HOLLYWOOD, FL 33020

EXAMINER
SODERQUIST, ARLEN

ART UNIT	PAPER NUMBER
1743	13

DATE MAILED: 11/05/2003

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

Office Action Summary	Application No.	Applicant(s)
	08/500,535	D ANGELO, JOSEPH P.
	Examiner	Art Unit
	Arlen Soderquist	1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-8,11 and 12* is/are allowed.

6)☒ Claim(s) *9 and 10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

This application is claiming the benefit of a prior filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c). Copendency between the current application and the prior application is required.

2. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:
(1) if a machine or apparatus, its organization and operation;
(2) if an article, its method of making;
(3) if a chemical compound, its identity and use;
(4) if a mixture, its ingredients;
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because the invention is an improvement and the abstract is not directed toward the improvement. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities: the cross-reference to related applications is incorrect since there is no copendency between the instant application and the application listed in that section of the specification on page 1.

Appropriate correction is required.

6. It is noted that the declaration in this application is improper because it claims benefit of these two applications for which there is a lack of copendency.

7. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (f) he did not himself invent the subject matter sought to be patented.

9. Claims 9-10 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter. In the documents filed as a part of the interference there are statements from at least two individuals that would indicate that Nicholas G. Levandoski contributed to the claimed subject matter of claims 9-10. In paper number 51, submitted by the junior party Schur et al. is testimony of Daniel Glenn from a trail involving both parties of the interference. On pages 1630-1631 of the record is testimony regarding Mr. Levandoski and the pacifier version of the saliva collector. In paper number 79, submitted by the senior party D'Angelo is s sworn statement from one Larry Shanley dated 17 July 1998. in this sworn statement, paragraph 5 is particularly relevant to the question of inventorship in that it states the following.

> "I recall that Nicolas Levandoski, during one meeting, suggested designing the saliva collector in the shape of a pacifier to obtain saliva from the tip of the tongue. This idea was disregarded in favor of the tubular shape introduced by Dr. D'Angelo to extract the saliva from the interior of the mouth."

These two statements point to Mr. Levandoski as the person that contributed the idea of the saliva collector in the shape of a pacifier and thus indicate that the inventorship of at least claims

9-10 is not correct. It is also noted that similar claim language was found in applications 08/432,778 and 08/239,726 which list three individuals as inventors. Thus if there are claims that were in these earlier applications that have elements contributed by an inventor different from the instant inventorship which appear as elements being claimed in the instant claims, those inventors are properly considered inventors of the instantly claimed invention. This is even if the idea was not selected as the preferred form of the invention. The fact that they were contributed by another and are being claimed requires the listing of the contributor(s) as an inventor of the instant claims or the cancellation of the elements from the instant claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arlen Soderquist whose telephone number is (703) 308-3989. The examiner's schedule is variable between the hours of about 5:30 AM to about 5:00 PM on Monday through Thursday and alternate Fridays. On or about 16 December 2003 examiner will move resulting in a change of telephone number to (571) 272-1265.

For communication by fax to the organization where this application or proceeding is assigned, (703) 305-7719 may be used for official, unofficial or draft papers. When using this number a call to alert the examiner would be appreciated. Numbers for faxing official papers are 703-872-9310 (before finals), 703-872-9311 (after-final), 703-305-7718, 703-305-5408 and 703-305-5433. The above fax numbers will generally allow the papers to be forwarded to the examiner in a timely manner.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Arlen Soderquist
November 3, 2003

ARLEN SODERQUIST
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph P. D'Angelo
20 NW 181st Street
Miami, FL 33169

COPY MAILED

APR 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Joseph P. D'Angelo	:	DECISION DISMISSING PETITION
Application No. 08/500,535	:	UNDER 37 CFR 1.181
Filed: July 11, 1995	:	
Title: Saliva Sample Collection System	:	

This is a decision on the renewed petition under 37 CFR 1.181, filed December 19, 2006, to withdraw the holding of abandonment.

On November 5, 2003, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application became abandoned on February 6, 2004. On July 14, 2004, the Office mailed a Notice of Abandonment. On April 7, 2006, petitioner, Joseph P. D'Angelo, filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition was dismissed by the decision of November 17, 2006.

On December 19, 2006, petitioner filed the present petition. Petitioner requested that the Office withdraw the holding of abandonment because neither he nor the law firm of Lerner & Greenberg received the nonfinal Office action.

The Office may grant a petition to withdraw the holding of abandonment and remail the Office action if the assertion of non-receipt of the Office action is adequately supported. The showing required to establish non-receipt of an Office communication **must include a statement from the practitioner,** stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. MPEP 711.03(c)(I)(A). A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. Id.

With the present petition, petitioner submitted the Declaration of Carmen Panizzi, the docket administrator at Lerner Greenberg Stemer, LLP from December 6, 2001 to February 8, 2005, attesting to non-receipt of the Office action, accompanied by a copy of the firm's docket book for February 5, 2004, the date the Office action would have been entered. Nevertheless, as previously stated in the decision of November 17, 2006, "[t] he showing required to establish non-receipt of an Office

communication **must include a statement from the practitioner** (or petitioner if acting *pro se*), stating that the **practitioner** did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in **practitioner's statement**. See MPEP 711.03(c)." (Emphasis added).

Unfortunately, petitioner did not submit a statement from a practitioner at Lerner Greenberg Stemer as required by the decision, as well as MPEP 711.03(c)(I)(A). Therefore, the petition under 37 CFR 1.181 must be **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment," accompanied by the required statement from the practitioner as indicated above. Extensions of time are permitted under 37 CFR 1.136(a).

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Joseph P. D'Angelo
20 NW 181st Street
Miami, FL 33169

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AUG 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Joseph P. D'Angelo	:	DECISION GRANTING PETITION
Application No. 08/500,535	:	UNDER 37 CFR 1.181
Filed: July 11, 1995	:	
Title: Saliva Sample Collection System	:	

This is a decision on the second renewed petition under 37 CFR 1.181, filed May 25, 2007, to withdraw the holding of abandonment.

On November 5, 2003, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application became abandoned on February 6, 2004. On July 14, 2004, the Office mailed a Notice of Abandonment. On April 7, 2006, petitioner, Joseph P. D'Angelo, filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment; which was dismissed by the decision of November 17, 2006. On December 19, 2006, petitioner filed a renewed petition under 37 CFR 1.181, which was dismissed by the decision of April 11, 2007.

Petitioner requested that the Office withdraw the holding of abandonment because neither he nor the law firm of Lerner & Greenberg received the nonfinal Office action.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the nonfinal Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the nonfinal Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the

non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicant submitted copies of docket records where the nonfinal Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the nonfinal Office Action was not received. Accordingly, applicant presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 1743 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new nonfinal Office Action. The three (3) month shortened statutory time period for responding to the nonfinal Office Action will be set to run from the mailing date of the new nonfinal Office Action.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

GP 1641

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Asst. Commissioner of Patents and Trademarks, Washington, D.C. on 3/24/00

By: Arlene A. Granlund

PATENT
Attorney Docket No.: 15280-191200US
Client Reference No.: E-040-94/2

#23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC72
MAR 3 1 2000
PATENT & TRADEMARK OFFICE

In re application of:

Yasutaka Hoshino et al.

Application No.: 08/500,564

Filed: July 11, 1995

For: HUMAN ROTAVIRUS VACCINE ATTENUATED BY COLD-PASSAGE

Examiner: J. Parkin

Art Unit: 1641

PETITION TO WITHDRAW ABANDONMENT

APR 0 7 20

TECH CENTER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Notice of Abandonment dated March 13, 2000, for failure to respond to the Office Action dated July 21, 1999. Applicants timely responded to the referenced action by filing an Amendment with a three-month extension of time on January 21, 2000. A copy of the Amendment Transmittal, Amendment, and Petition to Extend Time including the postcard acknowledgment stamped by the Patent Office Mail Room are enclosed as evidence of a timely response. Therefore, Applicants respectfully request that the Notice of Abandonment be withdrawn in the above-referenced patent application. Such request is timely, with no intention of delay.

No fee is believed due since the holding of abandonment was not due to Applicants error, however if deemed necessary, please charge (and refund) the $130.00

PATENT

petition fee and any other fees associated herewith to Townsend and Townsend and Crew LLP

Deposit Account No. 20-1430.

OIPE JC72
MAR 3 1 2000
PATENT & TRADEMARK OFFICE

Respectfully submitted,

Date: 24 March 2000

By: Brian W. Poor
Brian W. Poor
Reg. No. 32,928

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (206) 467-9600
Fax: (415) 576-0300
BWP/kg
SE 5002896 v1

APR 0 7 2000
TECH CENTER 1700/1500

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231

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Office of Director
Technology Center 1600

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO , CA 94111

In re Application of
Yatsutaka Hoshino et al
Serial No.: 08/500,564
Filed: July 11, 1995
Attorney Docket No.:15280-191200

: WITHDRAWAL OF ABANDONMENT

This is in response to applicants' petition under 37 CFR 1.181, filed March 313, 2000, requesting withdrawal of the holding of abandonment based on the filing of a timely response to the Office action mailed July 21, 1999.

A review of the file history shows that the examiner mailed an Office action to applicants on July 21, 1999, setting a three month shortened statutory time period for reply. On March 13, 2000, the examiner mailed a Notice of Abandonment to applicants indicating no response to the Office action had been received..

Applicants aver that a reply was filed on January 21, 2000, with a request for a three month extension of time and authorization to charge the fee therefor to a Deposit Account. The original reply has now been located and correlated with the file. In view thereof the Notice of abandonment was mailed in error and is hereby rescinded.

Applicants' petition is **GRANTED**. The application is restored to pending status with the mailing of this decision and will be forwarded to an examiner for further consideration.

The fee of $870.00 for a three month extension of time will be charged to Applicants' Deposit Account No. 20-1430, as directed.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 308-7922.

Jasemine C. Chambers
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:____

DATE : 2/14/08

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 8/500917 Patent No: 7169572 B1

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

RAMR. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

SPE **Art Unit** 1644

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5690516	1997-11-25	08/502,830	1995-07-14	CMC037P2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John P. Moran/	Date (YYYY-MM-DD)	2010-04-09
Name	John P. Moran	Registration Number	30906

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5690516
Issue Date: November 25,1997
Application No. 08502830
Filed: July 14,1995
Attorney Docket No. ERICP0278US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 9,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 9,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper # 13

JOSE L HENRIQUEZ
8522 SW 148TH PLACE
MIAMI FL 33193

COPY MAILED

SEP 0 8 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jose Henriquez :
Application No. 08/502,907 :
Filed: July 17, 1995 :
Title of Invention: Inclined Concrete Roofing System :
with Self-Supported Insulation :

This is a decision on the petition filed August 4, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the Office Communication indicating petitioner's response to the November 30, 1995 Office Action was non-responsive. The Office Communication mailed on August 20, 1997 set a non- extendable reply period of one month. This application became abandoned on September 21, 1997. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **GRANTED**.

It is noted the address presented on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Jose Luis Henriquez
800 Claughton Island Drive, Apt 1101
Miami, Florida 33131

enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MELVIN K. SILVERMAN AND ASSOCS PC
500 WEST CYPRESS CREEK ROAD
SUITE 350
FT. LAUDERDALE FL 33309

COPY MAILED

MAY 0 7 2008

OFFICE OF PETITIONS

In re Patent No: 7,353,642	:	
Issue Date : April 8, 2008	:	
Application No. 08/502,907	:	ON PETITION
Filed: July 17, 1995	:	
Patentee: Jose L. HENRIQUEZ	:	

This file has come to the attention of this office by way of the communication filed September 18, 2007 on behalf of the named inventor, Jose L. Henriquez (Henriquez), which is being treated as a petition under 37 CFR 1.181 to review (1) the becoming of record of assignee HPRS LLC (HPRS) and (2) the appointment and revocation of the power of attorney by HPRS, and the communication filed December 4, 2007 on behalf of HPRS requesting reinstatement of the power of attorney to the attorneys of Greenberg Traurig, LLP (Greenberg).

The petition is **granted**.

Petitioner contends that the attorneys of Melvin K. Silverman and Assocs PC (Silverman) appointed by customer number 27,353 should become the attorney of record as HPRS has improperly become of record within the meaning of 37 CFR 3.71 and MPEP 324 as petitioner did not execute an assignment to HPRS.

The USPTO prefers not to become embroiled in ownership disputes, particularly as it does not have the means or the authority to resolve such disputes. Indeed, USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), *cert. denied*, 114 S. Ct. (1994). Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title as a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2d 1119, 1123 (Fed. Cir. 1997) ("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33 USPQ2d 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900) (same). Rather, that is almost exclusively a matter for the state courts. However, under 37 CFR 3.73, the assignee of the entire interest may prosecute an application to the exclusion of the named inventor, or any previous

assignee, and also revoke, or appoint, a power of attorney in the application or patent. This however is contingent upon the putative assignee establishing its ownership of the application to the satisfaction of the Director. See 37 CFR 3.73(b).

Ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, a copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office. Id. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. Id.; See also MPEP 324.

This dispute centers on the document filed August 28, 2007 and recorded at reel 019757 frame 0550 purportedly executed by Henriquez on March 22, 2006 assigning his ownership interest putatively to HPRS, which was relied upon by HPRS to intervene as the putative assignee of the entire interest.

Initially, the instant application was filed *pro se* by Henriquez on July 17, 1995. On March 31, 2006 Henriquez gave a power of attorney to the attorneys of Lott & Friedland. On August 28, 2007 HPRS submitted a 3.73(b) statement and a power of attorney to the attorneys of Greenberg, however, no copy of the assignment document was submitted with those papers. On September 18, 2007 Henriquez filed an affidavit disputing the assignment and a power of attorney to the attorneys of Silverman. Greenberg, on December 4, 2007 submitted papers requesting that their power of attorney be reinstated.

While the document was recorded against this application by Gwyn Cantrell (Cantrell) of Greenberg on behalf of HPRS, such recordation as an "assignment" was simply predicated upon the assertion made on the assignment recordation cover sheet submitted by Cantrell. However, as set forth in 37 CFR 3.54 and MPEP 317.03, the recordation of a document proffered as an "assignment" is **not** a determination by the Office of the validity of the document or the effect that document has on the title to an application or patent. As further noted by the foregoing authorities, when, as here, it becomes necessary, the USPTO will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office. See also MPEP 324.

Additionally, MPEP 324 IX states:

> Generally, where there are two or more conflicting 37 CFR 3.73(b) statements in an application, the ownership entity that filed that application will be permitted to conduct the prosecution, and the other party that submitted a 37 CFR 3.73(b) statement to establish its ownership may wish to consider filing an application under 37 CFR 1.47.

The inventor is now, however, challenging the right to ownership of the present patent application property, stating that he owns the present patent application property. Inventors are

the de facto owners of the property where they have not assigned away the rights thereto. Accordingly, if indeed the inventors have not assigned away their property rights, there would be no need for a 37 CFR 3.73(b) statement, and the inventors would stand in the position stated MPEP 324, part IX to provide a conflicting statement of ownership despite the absence of a 37 CFR 3.73(b) statement. The instant application papers included a Declaration pursuant to § 1.63 signed by the sole inventor. Accordingly, the inventorship-ownership entity that filed that application would ordinarily be permitted to conduct the prosecution, and the assignee that submitted a 37 CFR 3.73(b) statement to establish its ownership would be permitted to file its own application under 37 CFR 1.47.

Although HPRS, in the communication filed December 4, 2007, alleges that Henriquez became a managing member of HPRS and was required to assign all patent rights in the instant application to HPRS, Henriquez states that he has not executed an assignment document. Accordingly, the ownership entity that filed the instant application, *i.e.,* Henriquez, is permitted to conduct prosecution and the correspondence address will remain with Silverman. Furthermore, as the power of attorney documents submitted August 28, 2007 by HPRS were incomplete, *i.e.,* they did not include a copy of the assignment document, the September 12, 2007 Notice of Acceptance of Power of Attorney was issued in error and, as such, is hereby vacated.

The USPTO will not (and in any event cannot) determine whether Henriquez was required to convey his rights in the invention set forth in this application to HPRS.

HPRS is not unduly harmed by this decision. Anyone may pay the maintenance fee for this patent and thus maintain it in force, without obtaining permission of the patentee or his successor(s) in title. See 37 CFR 1.366(a). Since the issue fee was duly paid and this patent has issued, no harm has befallen either party.

On a one time basis only, a courtesy copy of this decision is being sent to Greenberg. The USPTO will not undertake further dual correspondence.

Counsel for HPRS, and HPRS itself, are hereby placed on notice that, in the absence of a copy of a <u>final</u> decision from the highest court of competent jurisdiction that unequivocally awards title to HPRS, or unequivocally finds the HPRS always owned, the entire right, title, and interest in this application, any further attempt to divert correspondence or otherwise control the prosecution of this application will be regarded as correspondence filed for an improper purpose.

HPRS and its representatives are also placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18).

Telephone inquiries concerning this decision should be directed to David Bucci at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Cc: GREENBERG TRAURIG
1750 Tysons Boulevard
Suite 1200
McLean, VA 22102

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5704461	1998-01-06	08503016	1995-07-17	H550.12-0013

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alan M. Koenck/	Date (YYYY-MM-DD)	2010-03-16
Name	Alan M. Koenck	Registration Number	43724

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5704461
Issue Date: January 6,1998
Application No. 08503016
Filed: July 17,1995
Attorney Docket No. 1103

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 16,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nathan M. Rau
Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, MN 55402-3319

COPY MAILED

DEC 29 2004

OFFICE OF PETITIONS

In re Patent No. 5,828,410	:	
Issue Date: October 27, 1998	:	
Application No. 08/504,284	:	ON PETITION
Filed: July 19, 1995	:	
Patentee(s) Raoul E. Drapeau	:	

This is a decision on the petition under 37 CFR 1.378(c), filed by facsimile transmission on October 26, 2004, to accept the delayed payment of a maintenance fee for the above-identified patent.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in paying the maintenance fee was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

If petitioner desires to receive future correspondence, which **may** be mailed, regarding maintenance fees for the above-identified patent, the attached "fee address" and/or "customer number" forms should be submitted.

The patent file is being referred to Files Repository.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosures: Fee Address Indication Form (PTO/SB/47)
Request for Customer Number (PTO/SB/125)

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,619,489	1997-04-08	08/504,949	1995-07-20	16845-000100

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mikio Ishimaru/	Date (YYYY-MM-DD)	2007-04-06
Name	Mikio Ishimaru	Registration Number	27449

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5619489
Issue Date: April 8,1997
Application No. 08504949
Filed: July 20,1995
Attorney Docket No. 16845-000100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 6,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6110378	2000-08-29	08/507,419	1995-10-06	SD5220.1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
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Fee	Code	Fee	Code
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SURCHARGE
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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin W. Bieg/	Date (YYYY-MM-DD)	2010-05-05
Name	Kevin W. Bieg	Registration Number	40912

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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UNITED STATES 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. 6110378
Issue Date: August 29,2000
Application No. 08507419
Filed: October 6,1995
Attorney Docket No. P94015US

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed May 5,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 5,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 8

DATE : 8/15/05

TO SPE OF : ART UNIT 1661

SUBJECT : Request for Certificate of Correction on Patent No.: PP9573

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

Numerous publications were discovered in an art search that calls into question whether ~~ar~~ publications serve as a bar under 35 U.S.C. 102(b). Some of the publications have been enclosed (discovered as UPOV hits).

Anne Marie Grunberg
SPE

1661
Art Unit

COUNTRY/AUTHORITY	:	AU
IDENTIFIER	:	PBR 1990091
LATIN NAME	:	Rosa hybrid
COMMON NAME	:	Rose
DENOMINATION/proposed	:	1990.09.06NOATRAUM
DENOMINATION/accepted	:	1990.09.06NOATRAUM
SYNONYMS	:	PINK NOACK GROUNDCOVER
APPL./FILING NUMB.	:	1990091
APPL./FILING DATE	:	1990.08.29
GRANT/REG. NUMB.	:	0239
GRANT/REG. DATE	:	1993.01.20
APPLICANT	:	Werner Noack
BREEDER	:	Werner Noack

* * * * *

COUNTRY/AUTHORITY	BE
IDENTIFIER	PBR 90186
LATIN NAME	Rosa L. spec.
COMMON NAME	Rose
	Rosier
	Roos
DENOMINATION/proposed	NOATRAUM
DENOMINATION/accepted	1991.06.03 NOATRAUM
OTHER DENOMINATION	DE NOATRAUM
APPL./FILING NUMB.	90186
APPL./FILING DATE	1991.02.01
DATE PUBL. APPL./FILING	1999.04.30
GRANT/REG. NUMB.	0926
DATE PUBL. GRANT/REG.	1993.10.30
GRANT/REG. DATE	1993.09.22
EXPIRATION CALC.	2013.09.22
APPLICANT	WERNER NOACK IM FENNE 54, DE-33334 GUTERSLOH
BREEDER	WERNER NOACK IM FENNE 54, DE-33334 GUTERSLOH
TITLE HOLDER	WERNER NOACK IM FENNE 54, DE-33334 GUTERSLOH
OTHER APPLICATIONS	DE PBR 1989.11.24 00000ROS 698

* * * * *

COUNTRY/AUTHORITY	:	CA
IDENTIFIER	:	PBR 92-157
LATIN NAME	:	Rosa species
COMMON NAME	:	Rose
DENOMINATION/proposed	:	1992.11.06**Noatraum**
DENOMINATION/accepted	:	1996.04.30**Noatraum**
TRADE NAME	:	Flower Carpet
APPL./FILING NUMB.	:	92-157
APPL./FILING DATE	:	1992.11.06
DATE PUBL. APPL./FILING	:	1993.02.16
GRANT/REG. NUMB.	:	0209
DATE PUBL. GRANT/REG.	:	1996.07.29
GRANT/REG. DATE	:	1996.04.30
EXPIRATION CALC.	:	2014.04.30
APPLICANT	:	Noack, Werner
BREEDER	:	Noack, Werner
TITLE HOLDER	:	Noack, Werner
OTHER PARTIES	:	McFadden, Fincham (AGT)

* * * * *

COUNTRY/AUTHORITY	:	DE
IDENTIFIER	:	PBR ROS 00698
LATIN NAME	:	Rosa L.
COMMON NAME	:	Freilandrose
DENOMINATION/proposed	:	1989.01.24Noatraum
DENOMINATION/published	:	1989.05.15Noatraum
DENOMINATION/accepted	:	1989.12.18Noatraum
BREEDER'S REFR.	:	Noatraum
APPL./FILING NUMB.	:	ROS 00698
APPL./FILING DATE	:	1988.06.30
GRANT/REG. NUMB.	:	ROS 00698
GRANT/REG. DATE	:	1989.12.18
EXPIRATION CALC.	:	2014.12.31
APPLICANT	:	NOACK REINHARD Reinhard Noack
BREEDER	:	NOACK WERNER Werner Noack
TITLE HOLDER	:	NOACK REINHARD Reinhard Noack
OTHER APPLICATIONS	:	NL PBR 1988.08.01 NOATRAUM

* * * * *

COUNTRY/AUTHORITY	:	DK
IDENTIFIER	:	PBR 15513
LATIN NAME	:	ROSA L.
COMMON NAME	:	ROSE
	:	ROSE
DENOMINATION/proposed	:	1992.04.30NOATRAUM
DENOMINATION/published	:	1992.07.15NOATRAUM
DENOMINATION/accepted	:	1992.10.15NOATRAUM
APPL./FILING NUMB.	:	15513
APPL./FILING DATE	:	1992.04.30
DATE PUBL. APPL./FILING	:	1992.07.15
GRANT/REG. NUMB.	:	15513
DATE PUBL. GRANT/REG.	:	1993.01.15
GRANT/REG. DATE	:	1992.11.12
EXPIRATION CALC.	:	2017.11.11
APPLICANT	:	WERNER NOACK
BREEDER	:	WERNER NOACK
OTHER PARTIES	:	THOMSENS PLANTESKOLE A/S (AGT)

* * * * *

COUNTRY/AUTHORITY	FR
IDENTIFIER	PBR 0148176
LATIN NAME	Rosa L.
COMMON NAME	Rose
DENOMINATION/proposed	1990.03.12NOATRAUM
DENOMINATION/published	1990.04.10NOATRAUM
DENOMINATION/accepted	1990.07.10NOATRAUM
APPL./FILING NUMB.	9368
APPL./FILING DATE	1990.03.12
DATE PUBL. APPL./FILING	1990.04.10
GRANT/REG. NUMB.	5311
DATE PUBL. GRANT/REG.	1990.09.10
GRANT/REG. DATE	1990.08.22
APPLICANT	Reinhard Noack (DE)
BREEDER	Werner NOACK (DE)
TITLE HOLDER	Reinhard Noack (DE)

* * * * *

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 11

DATE : 11/1/07

TO SPE OF : ART UNIT 1661

SUBJECT : Request for Certificate of Correction for Appl. No.: 8/508048 Patent No: PP09573

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Numerous publications were discoved in an art search that calls into question whether the publications serve as a bar under 35 U.S.C. 102(b)

[signature]
SPE

1661
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

December 3, 2009

Michael J. Moffatt
Fulwider Patton, LLP
200 Oceangate, Suite 1550
Long Beach, CA 90802

Patent No: PP9,573
Application No.: 08/508,048
Applicant: Werner Noack
Issued: June 11, 1996
Title: **GROUND COVER ROSE PLANT NAMED 'FLOWER CARPET WHITE'**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

Per the examiner "Numerous publications were discovered in an art search that calls into question whether the publications serve as a bar under 35 U.S.C. 102 (b)".

In view of the foregoing, your request in these matters is hereby **denied.**

Future correspondence concerning this matter should be directed to Decisions & Certificates of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5727686	1998-03-17	08508429	1995-07-31	KRISTAL1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/rlb/	Date (YYYY-MM-DD)	2006-11-22
Name	Roger L. Browdy	Registration Number	25618

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5727686	1998-03-17	08508429	1995-07-31	KRISTAL1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/rlb/	Date (YYYY-MM-DD)	2006-11-22
Name	Roger L. Browdy	Registration Number	25618

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5727686	1998-03-17	08508429	1995-07-31	KRISTAL1

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/rlb/	Date (YYYY-MM-DD)	2006-11-22
Name	Roger L. Browdy	Registration Number	25618

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5727686	1998-03-17	08508429	1995-07-31	KRISTAL1

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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

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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/rlb/	Date (YYYY-MM-DD)	2006-11-24
Name	Roger L. Browdy	Registration Number	25618

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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UNITED STATES 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. 5727686
Issue Date: March 17,1998
Application No. 08508429
Filed: July 31,1995
Attorney Docket No. 339/2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 24,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 24,2006. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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In re Patent No. 5727686
Issue Date: March 17,1998
Application No. 08508429
Filed: July 31,1995
Attorney Docket No.339/2

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:UNDER 37 CFR 1.378(c)

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PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,644,720	1997-07-01	08/509,124	1995-07-31	

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

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STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jaclyn Sprtel/	Date (YYYY-MM-DD)	2009-09-24
Name	Jaclyn Sprtel	Registration Number	57987

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5644720
Issue Date: July 1,1997
Application No. 08509124
Filed: July 31,1995
Attorney Docket No. 049.12-0008

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 24,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 24,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5732105	1998-03-24	08/509,586	1995-07-31	60707-1930

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Daniel R. McClure/	Date (YYYY-MM-DD)	2007-12-04
Name	Daniel R. McClure	Registration Number	38962

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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UNITED STATES 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. 5732105
Issue Date: March 24,1998
Application No. 08509586
Filed: July 31,1995
Attorney Docket No. HAR-W-563

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 4,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 4,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5643342	1997-07-01	08510303	1995-08-02	1014-201

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Rochelle Lieberman/	Date (YYYY-MM-DD)	2010-06-21
Name	Rochelle Lieberman	Registration Number	39276

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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UNITED STATES 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. 5643342
Issue Date: July 1,1997
Application No. 08510303
Filed: August 2,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 21,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date :06/25/07

Patent No. : 5769258
Ser. No. : 08/510,417
Inventor(s) : HARRISON, RONALD A.
Issued : 06/23/98
Title : **PRESSURE VESSELS**
Docket No. : 219270R3199(

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 07 2008

OFFICE OF PETITIONS

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

In re Application of	:	
Chen, et al,	:	
Application No. 08/510,740	:	DECISION
Filed: 2 August, 1995	:	
Attorney Docket No. B-2750-FWC	:	

This is a decision on the renewed petition filed on 1 March, 2004, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES: Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

Petitioner may file in the alternative a petition under 37 C.F.R. §1.137(b) alleging unintentional delay, and submit therewith the petition fee, the reply due, the statement/showing of unintentional delay and, where required, a terminal disclaimer and fee.

BACKGROUND

The record reflects that:

- Applicant, failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (copy enclosed) mailed on 6 May, 2002, with reply due under a non-extendable deadline on or before 6 August, 2002;
- the application went abandoned after midnight 6 August, 2002;
- the Office mailed the Notice of Abandonment on 21 January, 2004;
- on 1 March, 2004, Petitioner filed a one-page petition with, *inter alia*, an averment that of non-receipt and suggestion of supporting documentation, but none in evidence, and Petitioner failed to make the recitation of search and failed to provide a copy of the docket papers for the instant application as well as a copy of the due-date calendar/docket for 6 August,2002, all as required and as is set forth in detail in the guidance at the Commentary in MPEP §711.03(c)(I)(A) and (B).

Moreover, the record evidences no action of diligent inquiry by Petitioner as to this matter:

- between 11 December, 2001, and the filing of the instant petition—Petitioner's unsupported allegations of filing of a Notice of Change of Address. Petitioner provides no Office-generated documentation of receipt (FAX Receipt Acknowledgement over Office letterhead), nor, in fact, does Petitioner provide a copy of the two (2) Notices averred to have been transmitted; or
- since the filing of the instant petition.

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

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

---

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

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

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

- Petitioner appears not to have satisfied showing requirement herein as discussed in the BACKGROUND, above—Petitioner failed to make any of the search statements and showings including but not limited to docket sheet(s) for the instant application and the due-date calendar/docket for 6 August,2002, all as required and as is set forth in detail in the guidance at the Commentary in MPEP §711.03(c)(I)(A) and (B).

CONCLUSION

Petitioner appears not to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

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

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

Because Petitioner was not of record at the time the application went abandoned and cannot make the statement of unintentional delay, Petitioner should have the Applicant/Assignee (with a Certificate under 37 C.F.R. §3.73(b)) make the statement/showing of unintentional delay.

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

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

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

Application No. 08/510,740

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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[8] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 05/06/2002

LADAS AND PARRY
5670 WILSHIRE BOULEVARD STE 1200
LOS ANGELES, CA 900365679

EXAMINER
MOISE, EMMANUEL LIONEL

ART UNIT	CLASS-SUBCLASS
2133	708-653000

DATE MAILED: 05/06/2002

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/510,740	08/02/1995	SAU-GEE CHEN	B-2750-FWC	8196

TITLE OF INVENTION: METHOD FOR FINDING QUOTIENT IN A DIGITAL SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1280	$0	$1280	08/06/2002

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above. If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

B. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

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

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (REV. 04-02) Approved for use through 01/31/2004.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Box ISSUE FEE
Commissioner for Patents
Washington, D.C. 20231
Fax (703)746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)
7590 05/06/2002

LADAS AND PARRY
5670 WILSHIRE BOULEVARD STE 1200
LOS ANGELES, CA 900365679

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/510,740	08/02/1995	SAU-GEE CHEN	B-2750-FWC	8196

TITLE OF INVENTION: METHOD FOR FINDING QUOTIENT IN A DIGITAL SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1280	$0	$1280	08/06/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
MOISE, EMMANUEL LIONEL	2133	708-653000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1_____
2_____
3_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☐ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

☐ Issue Fee
☐ Publication Fee
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____(enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) (Date)

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE(S)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/510,740	08/02/1995	SAU-GEE CHEN	B-2750-FWC	8196

7590 05/06/2002

LADAS AND PARRY
5670 WILSHIRE BOULEVARD STE 1200
LOS ANGELES, CA 900365679

EXAMINER
MOISE, EMMANUEL LIONEL

ART UNIT	PAPER NUMBER
2133	

DATE MAILED: 05/06/2002

Determination of Patent Term Extension under 35 U.S.C. 154 (b)

(application filed after June 7, 1995 but prior to May 29, 2000)

The patent term extension is 0 days. Any patent to issue from the above identified application will include an indication of the 0 day extension on the front page.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (http://pair.uspto.gov)

PTOL-85 (REV. 04-02) Approved for use through 01/31/2004.

Notice of Allowability	Application No. 08/510,740	Applicant(s) Chen et al.
	Examiner Emmanuel L. Moise	Art Unit 2133

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *Applicant's correspondence filed on july 23, 2001*

2. ☒ The allowed claim(s) is/are *1-4*

3. ☐ The drawings filed on _____ are acceptable as formal drawings.

4. ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

   a) ☐ All b) ☐ Some* c) ☒ None of the:

   1. ☐ Certified copies of the priority documents have been received.
   2. ☐ Certified copies of the priority documents have been received in Application No. _____.
   3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   *Certified copies not received: _____

5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

6. ☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

7. ☒ Applicant MUST submit NEW FORMAL DRAWINGS

   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

   1) ☐ hereto or 2) ☐ to Paper No. _____.

   (b) ☒ including changes required by the proposed drawing correction filed *De 23, 1994*, which has been approved by the examiner.

   (c) ☐ including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8. ☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

1 ☐ Notice of References Cited (PTO-892)
2 ☐ Notice of Informal Patent Application (PTO-152)
3 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
4 ☐ Interview Summary (PTO-413), Paper No. _____.
5 ☐ Information Disclosure Statement(s) (PTO-1449), Paper No(s). _____
6 ☐ Examiner's Amendment/Comment
7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
8 ☐ Examiner's Statement of Reasons for Allowance
9 ☐ Other

Emmanuel L. Moise
EMMANUEL L. MOISE
PRIMARY EXAMINER
ART UNIT 2133

UNITED STATES PATENT AND TRADEMARK OFFICE

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

J C PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

COPY MAILED
NOV 17 2008
OFFICE OF PETITIONS

In re Application of :
Chen, et al, :
Application No. 08/510,740 : DECISION
Filed: 2 August, 1995 :
Attorney Docket No. B-2750-FWC :

This is a decision on the petition, filed on 15 May, 2008, considered as a petition under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

- Applicant, failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (copy enclosed) mailed on 6 May, 2002, with reply due under a non-extendable deadline on or before 6 August, 2002;
- the application went abandoned after midnight 6 August, 2002;
- the Office mailed the Notice of Abandonment on 21 January, 2004;
- on 1 March, 2004, Petitioner filed a one-page petition with, *inter alia*, an averment that of non-receipt and suggestion of supporting documentation, but none in evidence, and

Petitioner failed to make the recitation of search and failed to provide a copy of the docket papers for the instant application as well as a copy of the due-date calendar/docket for 6 August,2002, all as required and as is set forth in detail in the guidance at the Commentary in MPEP §711.03(c)(I)(A) and (B). Moreover, the record evidences no action of diligent inquiry by Petitioner as to this matter: between 11 December, 2001, and the filing of the instant petition—Petitioner's unsupported allegations of filing of a Notice of Change of Address. Petitioner provides no Office-generated documentation of receipt (FAX Receipt Acknowledgement over Office letterhead), nor, in fact, does Petitioner provide a copy of the two (2) Notices averred to have been transmitted; or since the filing of the original petition—thus, the petition was dismissed on 7 April, 2008.

- The instant petition was filed on 15 May, 2008, with fee, a reply in the form of fees due and drawings, and made a statement of unintentional delay.

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

The record (including the petitions filed on 1 March, 2004, and 15 May, 2008) does not necessitate a finding that the delay between midnight 6 August, 2002 (the date of abandonment), and 15 May, 2008 (the date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Jiawei Huang (Reg. No. 43,330) when accepting Petitioner's representation that the delay in filing the response was unintentional.[1]

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

---

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

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

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

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 18

ROBERT M. ANGUS
KINNEY & LANGE
SUITE 1500
625 FOURTH AVENUE SOUTH
MINNEAPOLIS, MN 55415-1659

COPY MAILED

AUG 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Steven E. Koenck	:	
Application No. 08/513,658	:	ON PETITION
Filed: August 11, 1995	:	
Attorney Docket No. N275.12-0001	:	

This is a decision on the petition, filed July 29, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 19, 1997 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

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[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to timely request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2783 for processing of the request for continued examination under 37 CFR 1.114, and for consideration of the concurrently filed Information Disclosure Statement and Amendment.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

John H. Sherman
Intermec Technologies Corporation
c/o Legal Department
550 Second Street S.E.
Ceder Rapids, IA 52401

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,712,732	1998-01-27	08/513,787	1995-08-29	0787-0107P

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	◉ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael R. Cammarata/	Date (YYYY-MM-DD)	2010-06-14
Name	Michael R. Cammarata	Registration Number	39491

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5712732
Issue Date: January 27,1998
Application No. 08513787
Filed: August 29,1995
Attorney Docket No. 787-107P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5570827	1996-11-05	08514274	1995-08-11	3551.31001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
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NOT Small Entity			Small Entity		
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SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brian K. Yost/	Date (YYYY-MM-DD)	2010-04-09
Name	Brian K. Yost	Registration Number	61413

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5570827
Issue Date: November 5,1996
Application No. 08514274
Filed: August 11,1995
Attorney Docket No. B-5987

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 9,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 9,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 8

Stephens, Michael C. Jr.
Integrated Silicon Solution, Inc.
1940 Zanker Road
San Jose, CA 95112

COPY MAILED
NOV 13 2008

In re Patent No. 5,559,752
Issue Date: September 24, 1996
Application No. 08/514,693
Filed: August 14, 1995
Patentee(s): Michael C. Stephens Jr., et. al.

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.182 filed on September 11, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **granted**.

The Office of Data Management is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent.

The patent file is being referred to the Files Repository.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 ext 119.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/OPPD, South Tower 8th Floor, Room C23
FAX No. (571) 270-9753

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PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Y0995-165

Paper No. 11

RECEIVED
JAN 3 0 2002
Technology Center 2100

Jay P. Sbrollini
IBM Corporation
Intellectual Property Law Department
P.O. Box 218
Yorktown Heights, NY 10598

In re Application of)
Tien T. Huyn, et al.)
Application No. 08/515,778)
Filed: August 16, 1995)
For: METHOD AND APPARATUS FOR)
LINKING DATA IN A DISTRIBUTED)
DATA PROCESSING SYSTEM)

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. 1.181, filed November 20, 1998, which is being treated as a petition to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the final Office action of November 26, 1997.

Petitioner asserts that the Office action mailed on November 26, 1997 was not received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the applicant at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not received," 1156 O.G. 53 (November 16, 1993).

The petitioner has not made a sufficient showing to establish nonreceipt of the Office action. The petitioner has submitted a copy of the docket record for this specific application which shows that no Office Action was entered in the instant application during the time period in question. However,

this is not indicative of whether or not the Office action was received at the address of record. Such evidence would consist of documentary evidence such as a mail log covering a reasonable period after the date of mailing of the Office action to show receipt of other mail during the time period in question and to support the allegation that the Office action was not received as opposed to received but not entered into the correct file or lost after receipt.

Since there was no irregularity in the mail and all other mail sent to the address of record was received the presumption is strong that the Office action was properly mailed to the applicant at the address of record.

The petition is **DENIED**.

Any renewed request or petition to withdraw holding of abandonment should be submitted within 2 months of the mailing date of this decision and include evidence of nonreceipt such as a mail log or similar evidence covering a reasonable period after the date of mailing of the Office action.

The application file is being returned to the files repository.

Robert E. Garrett

Robert E. Garrett, Director
Technology Center 2700
Communications & Information Processing

MAR 23 1999

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Y0995-165

Paper No. 11

Jay P. Sbrollini
IBM Corporation
Intellectual Property Law Department
P.O. Box 218
Yorktown Heights, NY 10598

In re Application of)
Tien T. Huyn, et al.)
Application No. 08/515,778)
Filed: August 16, 1995)
For: METHOD AND APPARATUS FOR)
LINKING DATA IN A DISTRIBUTED)
DATA PROCESSING SYSTEM)

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. 1.181, filed November 20, 1998, which is being treated as a petition to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the final Office action of November 26, 1997.

Petitioner asserts that the Office action mailed on November 26, 1997 was not received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the applicant at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not received," 1156 O.G. 53 (November 16, 1993).

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Received from < > at 2/6/02 12:15:27 PM [Eastern Standard Time]

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Since there was no irregularity in the mail and all other mail sent to the address of record was received the presumption is strong that the Office action was properly mailed to the applicant at the address of record.

The petition is **DENIED**.

Any renewed request or petition to withdraw holding of abandonment should be submitted within 2 months of the mailing date of this decision and include evidence of nonreceipt such as a mail log or similar evidence covering a reasonable period after the date of mailing of the Office action.

The application file is being returned to the files repository.

Robert E. Garrett

Robert E. Garrett, Director
Technology Center 2700
Communications & Information Processing

Received from < > at 2/6/02 12:15:27 PM [Eastern Standard Time]

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Jay P. Sbrollini
IBM Corporation
Intellectual Property Law Department
P. O. Box 218
Yorktown Heights, New York 10598

MAIL

APR 0 2 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 14

In re Application of Huynh et al.	:
Application No. 08/515,778	: DECISION GRANTING PETITION
Filed: August 16, 1995	: TO WITHDRAW HOLDING OF
Attorney Docket No. YO995-169	: ABANDONMENT UNDER 37 CFR
Title: METHOD AND APPARATUS FOR	: §1.181(a)
LINKING DATA IN A DISTRIBUTED DATA	:
PROCESSING SYSTEM	:

This is a decision on the petition filed on November 23, 1998 with a renewal of that petition filed April 23, 1999 under 37 CFR §1.181 to withdraw the holding of abandonment of the above-identified application. Petitioner subsequently filed a faxed copy of the April 1999 petition on February 6, 2002.

The application was held abandoned for failure to respond in a timely manner to the final Office action mailed November 26, 1997. The November 1998 petition was not granted for petitioners' failure to provide adequate evidence that the Office action was not in fact received.

To prove the nonreceipt of the Office action, the petitioners were to provide the following:

1) a statement from practitioner that the Office action was not received,
2) a statement from practitioner that the file jacket and docket records were searched,
3) a copy of the docket record at the address of record,
4) a reference to the docket record in the practitioner's statement,
5) submission of the renewal request within two months of the petition decision, and
6) submission of a mail log or similar evidence.

A review of the evidence provided in both the original petition and the renewed petition are now sufficient to prove nonreceipt of the Office action mailed November 26, 1997. Petitioners have provided all the necessary statements and submissions for this application as evidence this correspondence was not received at the address of record and to overcome the presumption of receipt.

The petition is **GRANTED**. The Notice of Abandonment is withdrawn. The Office regrets any inconvenience this error has caused applicants.

The application is being forwarded to the art unit. The Office communication will be remailed with the three-month period for reply restarted to run from the date of the remailing.

Allen MacDonald

Allen R. MacDonald, Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

JAB

UNITED STATES 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. 5598765
Issue Date: February 4,1997
Application No. 08516619
Filed: August 18,1995
Attorney Docket No. 1639-0110P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 8,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 8,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,598,765	1997-02-04	08516619	1995-08-18	160304

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

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☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey A. Wyand/	Date (YYYY-MM-DD)	2010-07-08
Name	Jeffrey A. Wyand	Registration Number	29458

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,834,821	1998-11-10	08/517,479	1995-08-21	P-2438/16P

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher P. Maiorana/	Date (YYYY-MM-DD)	2007-03-30
Name	Christopher P. Maiorana	Registration Number	42829

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5834821
Issue Date: November 10,1998
Application No. 08517479
Filed: August 21,1995
Attorney Docket No. P-2438/16P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 30,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

MAILED

FEB 01 2010

OFFICE OF PETITIONS

In re Patent No. 5,706,799	:	
Issue Date: January 13, 1998	:	
Application No. 08/517,626	:	NOTICE
Filed: August 22, 1995	:	
Attorney Docket No. IMA-1	:	

This is a decision on the petition under 37 CFR 1.28, resubmitted July 13, 2009, to accept and record a maintenance fee for the above-identified patent.

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

The statement claiming small entity status of the above-identified patent has been made of record and large entity status has been removed. The small entity maintenance fee payments are accepted.

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

The patent file is being forwarded to Files Repository.

/ALESIA M. BROWN/

Alesia M. Brown
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

MAILED

FEB 01 2010

OFFICE OF PETITIONS

In re Patent No. 5,706,799 :
Issue Date: January 13, 1998 :
Application No. 08/517,626 : ON PETITION
Filed: August 22, 1995 :
Attorney Docket No. IMA-1 :

This is a decision on the petition under 37 CFR 1.377, filed July 13, 2009, to accept and record a maintenance fee for the above-identified patent. This is also a decision on the "conditional petition under 37 CFR 1.183.

DECISION UNDER 37 CFR 1.377

Petitioners have established that the 7.5 year maintenance fee was timely hand delivered to the USPTO on July 11, 2005 by virtue of the date-stamped return postcard, copy of which was submitted herewith. Petitioners have also provided a copy of the maintenance fee transmittal. The submission provided identification of the patent for which maintenance fees were desired to be paid including a patent number and an application number in accordance 37 CFR 1.366(c).

A maintenance fee intended for this patent was timely submitted under 37 CFR 1.362(e). For reasons unknown, the maintenance fee was not charged to patentees' credit card.

However, in view of the evidence provided herewith, the petition under 37 CFR 1.377 is hereby GRANTED.

In view thereof, the petition fee will be refunded.

DECISION UNDER 37 CFR 1.183

In view of the decision granting the petition under 37 CFR 1.377, the petition under 37 CFR 1.183 submitted herewith is DISMISSED AS MOOT.

In view thereof, the petition fee will be refunded.

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

The patent file is being forwarded to Files Repository.

/ALESIA M. BROWN/

Alesia M. Brown
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5641921	1997-06-24	08517814	1995-08-22	DENN.16

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tim Cook/	Date (YYYY-MM-DD)	2009-09-08
Name	Tim Cook	Registration Number	32561

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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UNITED STATES 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. 5641921
Issue Date: June 24,1997
Application No. 08517814
Filed: August 22,1995
Attorney Docket No. 12125

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 8,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 7 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

COMMANDING OFFICER
LEGAL COUNSEL FOR PATENTS
NCCOSC RDTE DIV CODE 0012
53510 SILVERGATE AVE, RM 103
SAN DIEGO, CA 92152-5765

In re Application of	:	
Stephen D. RUSSELL, et al.	:	
Application No. 08/518,051	:	DECISION ON PETITION
Filed: August 22, 1995	:	
For: **PROGRAMMABLE GREY-SCALE LIQUID CRYSTAL DISPLAY**	:	

This is a decision on the petition filed March 30, 2005, under 37 C.F.R. § 1.181(a) to withdraw holding of abandonment.

The petition is **GRANTED**

The application was held abandoned for failure to respond in a timely manner to the Final Office action mailed July 7, 2003. The application became abandoned when no further response was received. A Notice of Abandonment was mailed February 23, 2004.

Petitioner alleges to have timely submitted a response to the Final Office Action. In support, the Petitioner has included a copy of the return postcard date stamped September 22, 2003, itemizing a transmittal letter, an Amendment (4 pages) and a certificate of mailing.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file.

In view of the above, the Notice of Abandonment is vacated and the holding of abandonment withdrawn. In addition, a review of the file reveals that the amendment has been processed by the Technology Center's technical support staff and has already been considered by the examiner. The Notice of Allowability and Notice of Allowance and Fee Due were mailed May 27, 2005.

The application will be forwarded to the Office of Publications for processing as appropriate.

Doris To
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DRUMMOND & DUCKWORTH
4590 MACARTHUR BOULEVARD, SUITE 500
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,825,427 :
Issued: 10/20/1998 :
Application No. 08/518,583 :
Filed: 08/22/1995 :
For: IMAGE DISPLAY SYSTEM :

This is a decision on the petition under 37 CFR 1.378(c),[1] filed on 27 November, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent. This is also a decision on the petition under 37 CFR 1.182 to expedite consideration of the petition under 37 CFR 1.378(c).

The petitions are **GRANTED**.

The patent issued on 20 October, 1998. The window for payment of the second maintenance fee installment with a surcharge closed on 20 October, 2006. Therefore, since this petition was filed within twenty-four (24) months of the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

(1) The required maintenance fee set forth in § 1.20(e) through (g);
(2) The surcharge set forth in § 1.20(I)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 23

GEORGE O SAILE
20 MCINTOSH DRIVE
POUGHKEEPSIE, NY 12603

COPY MAILED

APR 2 7 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Cheng-Kun Lin et al. :
Application No. 08/518,705 : ON PETITION
Filed: August 24, 1995 :
Attorney Docket No. TS95-004 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 20, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 1.192(c). As a complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 1.192(c) mailed March 14, 1997, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(d) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on April 15, 1997. See MPEP 1215.04.

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center 1700.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 29

George O. Saile
20 McIntosh Drive
Poughkeepsie, NY 12603

COPY MAILED

JAN 25 2002

OFFICE OF PETITIONS

In re Application of
Cheng-Kun Lin, et al.
Application No.: 08/518,705
Filed: August 24, 1995
Attorney Docket No. TS95-004

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 18, 2001, in the above-identified application, which is being treated as (1) a request to withdraw the holding of abandonment of the application and (2) a request for a 3-month extension of time to an Office communication mailed July 3, 2001.

The petition, as construed, is GRANTED.

The application was held abandoned by a Notice of Abandonment mailed August 14, 2001, for a failure to file a complete and proper appeal brief within the time period provided in 37 CFR 1.192(a). However, a review of the record discloses that the Notice of Abandonment was premature in view of the availability of extensions of time to the Notice of Non-Compliance mailed July 3, 2001. Therefore, the Notice of Abandonment mailed August 14, 2001, is hereby vacated.

Accompanying the present petition was an appeal brief, which has been accepted by the examiner. Since the appeal brief filed October 18, 2001 was filed within the extendable period set for a response, a 3-month extension of time is required and will be charged to counsel's deposit account, instead of the fee authorized for payment for the petition under 37 CFR 1.137(b).

The application is being returned to Technology Center 1700, Art Unit 1753.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 09/05/02 Paper No.: ____

TO : Supervisor, Art Unit 2185

SUBJECT : Certificate of Correction Request in Patent No.: 5721,842

A response to the following question is requested with respect to the accompanying request for a cert of correction.

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

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision, regarding the changes requested in the Request for Certificate of Correctic placing a check mark (+) in the box that reflects your decision, which corresponds to the question che above.

☐ **YES** ☐ **NO** ☐ **Comments below**

☐ **Comments:** _____

Supervisor **Art Unit**

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5778370	1998-07-07	08519347	1995-08-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Mark L Emerson/	Date (YYYY-MM-DD)	2010-07-21
Name	Mark L Emerson		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5778370
Issue Date: July 7,1998
Application No. 08519347
Filed: August 25,1995
Attorney Docket No. P310

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed July 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 21,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5722646	1998-03-03	08520446	1995-08-29	C-238

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/james h walters/	Date (YYYY-MM-DD)	2006-11-13
Name	James H. Walters	Registration Number	35731

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5722646
Issue Date: March 3,1998
Application No. 08520446
Filed: August 29,1995
Attorney Docket No. C-238

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 13,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 13,2006. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5871034	1999-02-16	08520711	1995-08-29	SU-1443C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Glen Sumner/	Date (YYYY-MM-DD)	2007-08-13
Name	Glen Sumner		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5871034
Issue Date: February 16,1999
Application No. 08520711
Filed: August 29,1995
Attorney Docket No. SU-1443C

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed August 13,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 13,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5691687
Issue Date: November 25,1997
Application No. 08520865
Filed: July 3,1995
Attorney Docket No. ARC-12072-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 18,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 18,2006. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5691687	1997-11-25	08520865	1995-07-03	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Rajiv P. Patel/	Date (YYYY-MM-DD)	2006-12-18
Name	Rajiv P. Patel	Registration Number	39327

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6489441	2002-12-03	08522726	1995-09-01	S97035

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

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Fee	Code	Fee	Code
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○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sheila R. Kirschenbaum/	Date (YYYY-MM-DD)	2008-01-22
Name	Sheila R. Kirschenbaum	Registration Number	44835

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6489441
Issue Date: December 3,2002
Application No. 08522726
Filed: September 1,1995
Attorney Docket No. P41-90042

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW Oct-09

MARK SMITH, DIRECTOR OF ENGINEERING
ATWOOD MOBILE PRODUCTS LLC
1120 NORTH MAIN ST.
ELKHART IN 46514

COPY MAILED

OCT 30 2009

OFFICE OF PETITIONS

In re Patent No. 5650054	:	
Issue Date: 07/22/1997	:	
Application Number: 08/522946	:	ON PETITION
Filing Date: 09/01/1995	:	
For: LOW COST ROOM TEMPERATURE	:	
ELECTROCHEMICAL CARBON MONOXIDE	:	
AND TOXIC GAS SENSOR WITH	:	
HUMIDITY COMPENSATION BASED ON	:	
PROTONIC CONDUCTIVE MEMBRANES	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 6, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 22, 2009, for failure to pay the third maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Receipt of the change of correspondence address filed with the subject petition is acknowledged. All correspondence will be mailed to the new address of record. A copy of this decision is being forwarded to the address in the petition.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

PETER D. MCDERMOTT
BANNER & WITCOFF LTD
28 STATE ST, 28TH FLOOR
BOSTON MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
AMB 08-01

Paper No. 9

YASUO KAMATANI
2-12-2 YOKOYAMA SAGAMIHARA SHI
KANAGAWA, JAPAN 229

COPY MAILED

AUG 6 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Patent No. 5,587,981 :
Issue Date: December 24, 1996 : ON PETITION
Application No. 08/523,461 :
Filed: September 5, 1995 :

This is a decision on the petition under 37 C.F.R. § 1.378(c), filed July 30, 2001, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued December 24, 1996. The grace period for paying the 3.5 year maintenance fee expired at midnight on December 24, 2000. Therefore, since this petition was filed within twenty-four months after the six month grace period provided in 37 C.F.R. § 1.362(e), this petition was timely filed under the provisions of 37 C.F.R. § 1.378(c).

Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

There is no indication that petitioner herein was ever empowered to represent the instant patent. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney and change of correspondence address documentation must be submitted to the Office. A courtesy copy of this decision will be mailed to petitioner. **However, petitioner is advised that all future correspondence regarding this patent will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.**

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 C.F.R. § 1.378(c) was intentional, petitioner must notify the Office.

This file is being forwarded to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-305-0310.

Alesia M. Brown

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: FRED G. PRUNER
TROP, PRUNER & HU, P.C.
8554 KATY FREEWAY, SUITE 100
HOUSTON, TX 77024

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

TROP PRUNER & HU P.C.
8554 KATY FREEWAY
SUITE 100
HOUSTON, TX 77024

COPY MAILED

SEP 3 0 2002

OFFICE OF PETITIONS

In re Patent No. 5,587,981	:	
Issue Date: December 24, 1996	:	
Application No. 08/523,461	:	NOTICE
Filed: September 5, 1995	:	
Attorney Docket No. LSR.0005US	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Files Repository.

Wan Layman
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5579429	1996-11-26	08524066	1995-09-06	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/John Darland/	Date (YYYY-MM-DD)	2009-02-09
Name	John Darland		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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In re Patent No. 5579429
Issue Date: November 26,1996
Application No. 08524066
Filed: September 6,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 9,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5702035
Issue Date: December 30,1997
Application No. 08524386
Filed: September 5,1995
Attorney Docket No. S8552-0105

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed July 15,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 15,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,946,998	1999-09-07	08/525,285	1995-09-08	5000075-013

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Craig A. Slavin/	Date (YYYY-MM-DD)	2007-11-08
Name	Craig A. Slavin	Registration Number	35362

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5946998
Issue Date: September 7,1999
Application No. 08525285
Filed: September 8,1995
Attorney Docket No. 111-062

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 8,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 8,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5520413	1996-05-28	08526526	1995-09-11	2370-21

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sally J Brown/	Date (YYYY-MM-DD)	2008-09-22
Name	Sally J Brown	Registration Number	37788

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5520413
Issue Date: May 28,1996
Application No. 08526526
Filed: September 11,1995
Attorney Docket No. 2370-21-00

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 22,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BELL, BOYD & LLOYD, LLC
P.O. BOX 1135
CHICAGO, IL 60690-1135

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OFFICE OF PETITIONS

In re Application of	:	
John T. Wolfe, et. al.	:	
Application No. 08/526,887	:	ON PETITION
Filed: September 12, 1995	:	
Attorney Docket No. 112703-063	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2006, to revive the above-identified application.

This application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed June 9, 2005. A Notice of Abandonment was mailed on January 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and formal drawings; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being referred to the Office of Publications for review of the five (5) sheets of formal drawings containing Figures 1-8 filed January 17, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

JUN 22 2000

#20 EAW 6/22/00

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

In re Application of Chris C. Yu et al. Serial No. 08/527,954 Filed: September 14, 1995 For: TWO-STEP CHEMICAL MECHANICAL POLISHING PROCESS FOR PRODUCING FLUSH AND PROTRUDING TUNGSTEN PLUGS	:	DECISION ON REQUEST TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the "PETITION TO REVIVE PURPORTEDLY ABANDONED APPLICATION AS UNAVOIDABLY ABANDONED AND TO SUSPEND THE RULES" filed on May 23, 2000. Since the petition is based on failure to receive office action, the petition is treated as filed under 37 C.F.R. § 1.181 and no fee is required.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of April 29, 1999. A Notice of Abandonment was mailed on December 2, 1999.

Applicants stated that the delay was caused by nonreceipt of the Office action of April 29, 1999, because the Office action was incorrectly mailed to the address of the prior power of attorney instead of to the proper address listed in the "POWER OF ATTORNEY, REVOCATION OF PRIOR POWER OF ATTORNEY (37 C.F.R. § 1.36) and REQUEST TO CHANGE CORRESPONDENCE ADDRESS (37 C.F.R. § 1.33(d)) WITH STATEMENT PURSUANT TO 37 C.F.R. § 3.73" filed on April 23, 1997. Applicants further stated that various attempts to obtain copies of the Office action (Paper No. 17) and the Notice of Abandonment (Paper No.18) were made in vain. Applicants provided copies of the power of attorney and revocation of prior powers filed on April 23, 1997, the date-stamped postcard receipt showing the April 23, 1997 receiving date, and Applicants' undersigned attorney's docket printed out where the non-received Office Letter would have been entered.

As a result of a review of information appended to the petition, an investigation of P.T.O. Patent Application Location and Monitoring (PALM) system has been conducted. The results of the investigation revealed that the "POWER OF ATTORNEY, REVOCATION OF PRIOR POWER OF ATTORNEY (37 C.F.R. § 1.36) and REQUEST TO CHANGE CORRESPONDENCE ADDRESS (37 C.F.R. § 1.33(d)) WITH STATEMENT PURSUANT TO 37 C.F.R. § 3.73" filed on April 23, 1997 had not been entered. Subsequently, both the Office action of April 29, 1999 and the Notice of Abandonment of December 2, 1999 were mailed to the address of the prior power of attorney rather than to Applicants' undersigned attorney's address.

The petition for withdrawing holding of abandonment is **GRANTED**.

The petition to suspend the rules pursuant to 37 C.F.R. 1.183 is unnecessary and thus **DISMISSED AS MOOT**, since the petition is treated as filed under 37 C.F.R. § 1.181 as stated supra and there is no need for applicants to comply with 37 C.F.R. 1.137(a)(1).

The application is being forwarded to the Technical Support Staff for proper entrance of the "POWER OF ATTORNEY, REVOCATION OF PRIOR POWER OF ATTORNEY (37 C.F.R. § 1.36) and REQUEST TO CHANGE CORRESPONDENCE ADDRESS (37 C.F.R. § 1.33(d)) WITH STATEMENT PURSUANT TO 37 C.F.R. § 3.73" filed on April 23, 1997, re-mailing of the Office action (Paper No. 17), and restarting of the statutory period for responding thereto.

The U.S.P.T.O. apologizes to applicants for the inconveniences caused by this error.

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems and Components
(703) 308-6452

Joseph A. Walkowski
TRASK, BRITT & ROSSA
P.O.Box 2550
Salt Lake City, Utah 84110-2550
(801) 532-1922

JUN 22 2000

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 35

JOSEPH A. WALKOWSKI
TRASK, BRITT & ROSSA
P.O. BOX 2550
SALT LAKE CITY UT 84110

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OCT 28 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of:
Yu, *et al.*
Application No. 08/527,954
Filed: September 14, 1995
Attorney Docket No. MCRO:001/MLY

This is a decision on the April 30, 2002 petition under 37 C.F.R. §1.137(b) to revive the above-identified application from an abandoned status.

This application became abandoned for failure to timely reply to the *Ex Parte Quayle* action mailed on December 19, 2000. The period for replying was set at two (2) months.

On May 17, 2001, Petitioner filed a request for continued examination with a request for suspension of action. This was timely with the three month extension of time that was also requested with the filing.

On May 30, 2001, the office mailed a notice of acceptance of the request for suspension. However, on April 19, 2002, the office mailed a notice of improper RCE, due to lack of a proper submission.

The notice did not change the deadline for replying to the final office action. Therefore, since no proper reply was received within the period for replying, this application became abandoned as of May 19, 2001. [1]

All requirements for the filing of a grantable petition under 37 C.F.R. §1.137(b) have been met. Therefore, *this petition is* ***granted***.

This application will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] 35 U.S.C. §133, 37 C.F.R. §1.134-136.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5942988	1999-08-24	08528768	1995-09-15	23687.47693

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
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SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Heather M. Barnes/	Date (YYYY-MM-DD)	2009-02-20
Name	Heather M. Barnes	Registration Number	44022

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5942988
Issue Date: August 24,1999
Application No. 08528768
Filed: September 15,1995
Attorney Docket No. 5071-13078

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 20,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,916,286	1999-06-29	08/528,933	1995-09-15	87355.11440

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Phong D. Nguyen/	Date (YYYY-MM-DD)	2008-06-05
Name	Phong D. Nguyen	Registration Number	43833

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5916286
Issue Date: June 29,1999
Application No. 08528933
Filed: September 15,1995
Attorney Docket No. AUTOXRAY-P1

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed June 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Peter V. Schroeder
CRUTSINGER & BOOTH, LLC
1601 Elm Street, Suite 1950

COPY MAILED

FEB 1 0 2009

OFFICE OF PETITIONS

In re Patent No. 5,593,289 :
Issued: January 14, 1997 :
Application No. 08/529,626 : DECISION ON PETITION
Filed: 08/529,626 :
Attorney Docket No. TARP1-19385 :

This is a decision on the petition to expedite pursuant to 37 CFR 1.182 filed February 6, 2009.

The petition to expedite is hereby GRANTED.

In general, the Office of Petitions reviews petitions and renders decisions on petitions in the order by which the petitions are filed. Consideration outside the general course of action requires a petition to expedite (and fee). As petitioner has met the minimum requirements for expedited treatment, the petition to expedite is grantable.

Petitioner is advised, however, the review on the merits of the petition under 37 CFR 1.378(c) is not forthcoming herewith as the petition is not properly executed in accordance with 37 CFR 1.33(b).

Any request for further consideration of this matter must be accompanied by a petition properly executed in accordance with 37 CFR 1.33(b) signed by either (1) a patent practitioner of record appointed in compliance with § 1.32(b); (2) a patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) an assignee as provided for under § 3.71(b); or (4) all of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71.

Any request for further reconsideration should be submitted with TWO MONTHS of the mail date set forth above and should be titled "REQUEST FOR RECONSIDERATION."

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

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enc.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/529,626	09/15/1995	LEON TARPLEY	MP-10B-92

CONFIRMATION NO. 4297

ROBERT C PETERSON
PO BOX 2626
ODESSA, TX 79760

POWER OF ATTORNEY NOTICE

OC000000034468094

Date Mailed: 02/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2008.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/ambrown/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/529,626	09/15/1995	LEON TARPLEY	MP-10B-92

CONFIRMATION NO. 4297

POA ACCEPTANCE LETTER

1224
BOOTH ALBANESI SCHROEDER LLC
1601 ELM STREET
SUITE 1950
DALLAS, TX 75201-4744

OC000000034468106

Date Mailed: 02/09/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2008.

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

/ambrown/

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

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OFFICE OF PETITIONS

BOOTH ALBANESI SCHROEDER LLC
1601 ELM STREET
SUITE 1950
DALLAS TX 75201-4744

In re Patent No. 5,593,289 :
Issue Date: January 14, 1997 :
Application No. 08/529,626 : DECISION ON PETITION
Filed: September 15, 1995 : UNDER 37 CFR 1.378(b)
For: STANDING VALVE ASSEMBLY FOR :
SUCKER ROD OPERATED SUBSURFACE :
PUMPS
Patentee: Tarpley

This is a decision on the petition under 37 CFR 1.378(b), filed January 23, 2009 and supplemented June 5, 2009, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued January 14, 1997. The third maintenance fee could have been paid from January 14, 2008 through July 14, 2008 without a surcharge, or with a surcharge during the period from July 15, 2008 through January 14, 2009. Accordingly, the patent expired at midnight on January 14, 2009 for failure to timely submit the third maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item requirement (1) set forth above.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

Patentee states that:

> "The delay in payment of the maintenance fee on my patent, U.S. Patent No. 5,593,289 was unavoidable. I took reasonable care to ensure that the maintenance fee would be paid in a timely manner. I retained Mr. Robert C. Peterson of Milburn & Peterson, PC, a licensed U.S. patent attorney in Odessa, Texas (Reg. No. 20391), to prepare my patent and docket the maintenance fees, send me notice that the fees were due and then timely pay the fees. In the past, Mr. Peterson always notified me on a timely basis regarding maintenance fees and I would quickly submit the required fees for payment to the Patent & Trademark Office. Unfortunately, Mr. Peterson became critically ill during 2008, resulting in his retirement from practice. I was unaware of this development until I received a letter from Mr. John F. Booth, of Booth Albanesi Schroeder, LLC, dated January 12, 2009, informing me of Mr. Peterson's retirement for health reasons. Upon receiving the letter, on January 15, 2009, I promptly contacted Mr. Booth's firm regarding my patent and any maintenance fees for it. This was the first I became aware that the maintenance fee was due on January 14, 2009, and that I was late in making the fee payment. I promptly retained Booth Albanesi Schroeder, LLC, on January 15, 2009, over the phone to represent me. I promptly forwarded a retainer to cover the maintenance fee and am promptly submitting this Petition and the required fees."

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In essence, patentee must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the

fee came due, was "unavoidably" prevented from making the maintenance fee payment due to Mr. Peterson's illness until the petition was filed. Petitioner has failed to meet this burden.

Petitioner alleges that he first became aware that the maintenance fee was due on January 15, 2009 upon receipt of a letter from John F. Booth dated January 12, 2009. Petitioner has not provided any documentary evidence to this effect.

To the extent that patentee engaged Mr. Peterson to track the maintenance fee due date of the instant patent, there is nothing in the record that establishes Mr. Peterson had steps in place to ensure timely payment of the maintenance fee. Thus, it cannot be found that it was reasonable for patentee to rely upon Mr. Peterson for the purpose of tracking the maintenance fee. Further, there is nothing in the record to establish that patentee, who bears the ultimate responsibility for ensuring timely payment of the maintenance fee, made inquiry of Mr. Peterson or the Patent and Trademark Office to determine when and if the maintenance fee was due.

In view of the limited statement provided by patentee, it cannot be determined that the failure to timely submit the required maintenance fee, from the time that the maintenance fee was due until the filing of a grantable petition, was unavoidable.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a sufficient showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that patentee or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra. Put otherwise, the issues of Mr. Peterson's alleged illness are immaterial in the absence of a showing that these, and not the lack of any steps in place to pay the fee, caused or contributed to the delay.

Petitioner has not provided any documentary evidence, such as documents from licensed health care providers, demonstrating the nature and extent of Mr. Peterson's medical condition to establish that Mr. Peterson was, from the date of expiry until the filing of a grantable petition, "unavoidably" prevented from taking any earlier action with respect to this patent. Additionally, petitioner has failed to establish how Mr. Peterson managed to conduct his daily personal and business affairs, such as scheduling and settlement of short and long term debts and business obligations, bills, rent or mortgage payments, income taxes etc., during the time in question. Petitioner has failed to demonstrate that the health problems attributed to Mr. Peterson were such as to cause the payment of the maintenance fee to have been unavoidably delayed.

Ultimately patentee bears the responsibility for timely remittance of the maintenance fee. The petition fails to establish that patentee was unavoidably delayed in making the payment. Accordingly, the Office is precluded from accepting the maintenance fee and surcharge. If reconsideration of this decision is not desired, petitioner may request a refund of this fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Any renewed petition must establish that the entire period of delay from the time that the maintenance fee was due until the time of the filing of a grantable petition has been unavoidable. Petitioner is reminded that any renewed petition should entail an exhaustive effort to establish that the failure to timely pay the maintenance fee was unavoidable as after reconsideration pursuant to 37 CFR 1.378(e), no further reconsideration regarding unavoidable delay will be undertaken.

Petitioner must establish that patentee was aware of the need to pay the maintenance fee, and were tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due to Mr. Peterson's alleged illness until the filing of a grantable petition. Petitioner must establish a nexus between the events complained of and the failure to timely remit the maintenance fee.

Petitioner may wish to submit statements of facts from Mr. Peterson and Mr. Booth; copies of any contractual agreements between Mr. Peterson and patentee whereby Mr. Peterson was engaged to track the maintenance fee; copies of any reminder letters received from Mr. Peterson to patentee concerning maintenance fees for the patent; copy of the letter(s) patentee is alleged to have received concerning Mr. Peterson's illness and the maintenance fee; and, a detailed statement concerning the system in place for tracking the maintenance fee.

ALTERNATIVE REMEDY

In lieu of a request for reconsideration pursuant to 37 CFR 1.378(e), patentee may wish to consider filing a petition stating that the entire period of delay, from the time the maintenance fee was due until the filing of a grantable petition pursuant to 37 CFR 1.378(c) was unintentional. Any petition to accept an unintentionally delayed payment of a maintenance fee filed must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include: (1) the required maintenance fee set forth in § 1.20 (e) through (g); (2) the surcharge set forth in § 1.20(i)(2); and (3) a statement that the delay in payment of the maintenance fee was unintentional. Submission of a petition pursuant to 37 CFR 1.378(c) cannot be intentionally delayed.

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

MPB RWM-MRA
4121-3-01

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

#7
6/12/03

FINNEGAN, HENDERSON, FARABOW,
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FOR PATENT OWNER

KATE H. MURASHIGE
MORRISON & FOERSTER, LLP
3811 VALLEY CENTER DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

FOR REQUESTER

In re Sorge et al
Reexamination Proceeding
Control No.: 90/006,571
Filed: March 20, 2003
For: U.S.Patent No. 5,5556,772

: DECISION RETURNING
: IMPROPER PAPER

The paper filed by facsimile on June 10, 2003, by the third party reexamination requester entitled REQUEST FOR ADDITIONAL DECISION is before the Group Director of Examining Group 1600. Under 37 CFR 1.550(e):

> The active participation of the reexamination requester ends with the reply pursuant to 37 CFR 1.535, and no further submissions on behalf of the reexamination requester will be acknowledged or considered.

The paper filed by the third party requester, after the start of examination on the merits, is an improper submission under 37 CFR 1.550(e). See Syntex (USA) Inc. v. U. S. Patent and Trademark Office, 11 USPQ2d 1866, 1868-69 (Fed. Cir. 1989). Accordingly, the paper has not been considered and is being returned herewith. MPEP 2267. This decision will be made of record in the reexamination file. It is noted that the issues raised in the paper would normally be considered/reconsidered by the examiner in the first Office action on the merits.

John Doll
Director, Technology Center 1600/2900

RECEIVED
JUN 16 2003
FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER, L.L.P.

Pat Own Stmt Due 7.22-03

DHV
6-17-03

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLE K NILSSEN
408 CAESAR DRIVE
BARRINGTON, IL 60010

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Patent No. 5,691,603 :
Issued: November 25, 1997 :
Application No.: 08/531,481 : ON PETITION
Filed: September 21, 1995 :
Attorney Docket No: :

This is in response to the "Small Entity Fee Correction Form", filed June 27, 2006, which will be treated as a petition filed pursuant to 37 CFR 1.28.

The petition is **GRANTED.**

The record reflects that the 8.5-year fee was paid at the small entity rate. Petitioner later discovered that the inventive entity or assignee did not qualify as a small entity and filed the instant petition, accordingly.

Petitioner has remitted the deficient amount of $1,150.00.

Pursuant to 37 CFR 1.28(d), the payment of the deficient amount will be treated under 37 CFR 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

The application file will be directed to the Files Repository.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Ole K. Nilssen
200 N. Harrison Street
Suite 103
Algonquin, IL 60102

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 16

DAVID R.J. STIENNON
LATHROP & CLARK
740 REGENT STREET, SUITE 400
P.O. BOX 1507
MADISON, WI 53701-1507

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APR 0 8 2003

OFFICE OF PETITIONS

In re Patent No. 5,916,114	:	NOTICE
Issue Date: June 29, 1999	:	
Application No.. 08/532,046	:	
Filed: September 21, 1995	:	
Attorney Docket No. FISHBAR-5	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 37

Melanie L. Brown
AlliedSignal Inc.
Law Department
PO Box 31
Petersburg, VA 23804

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MAY 0 4 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Igor Palley et al. :
Application No. 08/533,589 : ON PETITION
Filed: September 25, 1995 :
Attorney Docket No. 30-3744 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 28, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 4, 2000, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on July 5, 2000. See MPEP 1215.04.

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

The application is being forwarded to Technology Center 3700, for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5553458	1996-09-10	08/534,734	1995-09-27	70022-00008

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John D. McConaghy/	Date (YYYY-MM-DD)	2008-09-30
Name	John D. McConaghy	Registration Number	26773

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5553458
Issue Date: September 10,1996
Application No. 08534734
Filed: September 27,1995
Attorney Docket No. 216/086

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 30,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 30,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5852262	1998-12-22	08535968	1995-09-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Michael W. Erickson/	Date (YYYY-MM-DD)	2008-05-15
Name	Michael W. Erickson		
Enter Reel and Frame Number		Remove	
Reel Number	007714	Frame Number	0404
Enter Reel and Frame Number		Remove	
Reel Number	019193	Frame Number	0315
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5852262
Issue Date: December 22,1998
Application No. 08535968
Filed: September 28,1995
Attorney Docket No. 7017

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 15,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 15,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 11

PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

COPY MAILED

OCT 01 2007

OFFICE OF PETITIONS

In re Patent No. 5,645,214
Issue Date: July 8, 1997
Application No. 08/537,452
Filed: October 2, 1995
Title of Invention: Combination Envelope and Greeting Card

ON PETITION

This is a decision on the petition submitted on September 2, 2005, which is being treated under 37 CFR 1.377 to accept and record a maintenance fee for the above-identified patent. This decision corrects the decision mailed on September 6, 2007.

The petition is **granted**.

This patent was held expired for failure to timely pay the second maintenance fee on or before July 8, 2007.

Petitioner states that the first maintenance fee was in fact timely paid. In support of this statement, petitioner has submitted a maintenance fee transmittal form with a certificate of transmission dated June 29, 2005. The maintenance fee transmittal form authorized charging a credit card in the amount of $1215.00 towards the seven and one-half year maintenance and the six month surcharge fee.

A review of the finance records for the present patent reveals that the transmittal form was not received. Thus, the maintenance fee payment was not recorded. Petitioner has provided sufficient evidence to establish the maintenance fee was timely submitted but due to reasons unknown the maintenance fee transmittal form was not received. Accordingly, the credit card will be charged the 7.5 year maintenance fee and six month surcharge in the amount of $1215.00.

This decision constitutes the fee acceptance notification for the second maintenance fee. A notice of this decision will be published in the Official Gazette in due course.

This file is being forwarded to the Files Repository.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY L. JOSEPHSON
531 EAGLEBROOK DRIVE
MOORESTOWN, NJ 08057

COPY MAILED

MAR 2 0 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,623,660	:
Issue Date: April 22, 1997	:
Application No. 08/537,541	:
Filed: October 2, 1995	:
Patentee(s): Jeffrey L. Josephson	:

This is a decision on the petition, filed November 15, 2006, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is GRANTED.

The patent issued April 22, 1997. The grace period for paying the second maintenance fee expired on April 23, 2005. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

This file is being forwarded to Files Repository.

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

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

SCHNADER HARRISON SEGAL & LEWIS
1600 MARKET STREET, SUITE3600
PHILADELPHIA, PA 19103

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6114847	2000-09-05	08538639	1995-10-04	PSI-07

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/william j kolegraff/	Date (YYYY-MM-DD)	2008-11-04
Name	William J Kolegraff	Registration Number	41125

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6114847
Issue Date: September 5,2000
Application No. 08538639
Filed: October 4,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 4,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 4,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,592,811	1997-01-14	08/538,692	1995-10-03	22130.0002U1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert A. Blaha/	Date (YYYY-MM-DD)	2009-04-23
Name	Robert A. Blaha	Registration Number	43502

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5592811
Issue Date: January 14,1997
Application No. 08538692
Filed: October 3,1995
Attorney Docket No. 170-95-014

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 23,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 23,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

SEP 0 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 12

DANIEL L DAWES
5252 KENILWORTH DRIVE
HUNTINGTON BEACH CA 92649

In re Application of:
Marc S. LEMCHEN
Application No.: 08/539,320
Filed: October 4, 1995
For: SOUND PROTECTION HEADSET WITH PROXIMITY COLLISION AVOIDANCE PROTECTION

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Request filed March 8, 2004, which is being treated as a petition to withdraw holding of abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply a proper response to the final Office action mailed on July 16, 1997. A Notice of Abandonment was mailed February 18, 1998.

Petitioner alleges to have timely filed a proper response to the final Office action mailed on July 16, 1997. In support thereof, petitioner provided as evidence, a copy of a request for Continued Prosecution Application (CPA), a copy of an Express Mail receipt, and a photocopy of the post card receipt which itemizes the aforementioned items and date stamped as received in the USPTO on January 6, 1998. An authorization to charge fees was included with the request for CPA.

The original request for CPA, acknowledged as having been received in the USPTO on January 6, 1998, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file. Furthermore, according to the Office's Revenue Accounting and Management software, the original CPA filing fee was received on January 6, 1997. The $395 fee has been credited to the application file. However, a three month extension of time is required to render the CPA timely. Accordingly Petitioner's deposit account (04-0259) will be charged $465 in accordance with the authorization given in the Request for CPA.

The Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to Technology Center's technical support staff for processing the copy of the CPA request which accompanied the instant petition and for charging $465 (fee requirement as of January 6, 1998) for three months extension of time (small entity). From there, the file will be forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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DEC 2 4 2008

In re Application of
Mark D. Holte
Application No. 08/540,429
Filed: October 10, 1995
Attorney Docket No. 99-367

ON PETITION

This is a decision in response to the petition, filed May 15, 2008, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before April 24, 2000. A Notice of Abandonment was mailed on July 24, 2000. On May 15, 2008, a petition under 37 CFR 1.137(b) was filed, wherein petitioner explains that the abandonment was recently discovered. Accordingly, petitioner requests that the application be revived under the provisions of 37 CFR 1.137(b).

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440; (2) the petition fee of $1,540; and (3) an adequate showing and statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5603179
Issue Date: February 18,1997
Application No. 08540779
Filed: October 11,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 20,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 35

ROBIN M SILVA
FLEHR HOHBACH TEST ALBRITTON AND HERBERT
FOUR EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO CA 94111-4187

COPY MAILED

SEP 1 9 2002

OFFICE OF PETITIONS

In re Application of
Kayyem, et al.
Application No. 08/541,191
Filed: October 11, 1995
Attorney Docket No. A-62629/RFT

DECISION ON PETITION

This is a decision on the petition to revive the above-identified application pursuant to 37 CFR 1.137(b), filed July 12, 2002.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to timely file a proper Appeal Brief. A final Office action was mailed on November 14, 2000, which set a shortened statutory period for reply of three months. Petitioner obtained a three month extension of time and replied with a Notice of Appeal on May 21, 2001 (Certificate of Mailing dated May 14, 2001). Accordingly, petitioner had two months from the filing of the Notice of Appeal, or until July 21, 2001, to file an Appeal Brief (with fee) in triplicate. No Appeal Brief having been received, the above-identified application became abandoned on July 22, 2001. A Notice of Abandonment was mailed on April 22, 2002.

Petitioner has satisfied the requirements for a grantable petition under 37 CFR 1.137(b). Petitioner paid the petition fee, submitted a reply in the form of a Continued Prosecution Application (CPA), and made the proper statement of unintentional delay.

The small entity fee for a petition under 37 CFR 1.137(b) of $640 has been charged to Deposit Account No. 06-1300, as authorized.

The application file is being forwarded to Technology Center 1600 for processing of the CPA and the Terminal Disclaimer submitted with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5647221	1997-07-15	08541653	1995-10-10	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles A. Garris, Jr./	Date (YYYY-MM-DD)	2010-06-01
Name	Charles A. Garris, Jr.	Registration Number	45346

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Alexandria, VA 22313-1450
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In re Patent No. 5647221
Issue Date: July 15,1997
Application No. 08541653
Filed: October 10,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 1,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 1,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5609899
Issue Date: March 11,1997
Application No. 08543614
Filed: October 16,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 22,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5609899	1997-03-11	08543614	1995-10-16	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Donald Spector/	Date (YYYY-MM-DD)	2010-01-22
Name	Donald Spector		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION
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650 HARRY ROAD
SAN JOSE CA 95120-6099

COPY MAILED

DEC 15 2009

OFFICE OF PETITIONS

In re Patent No. 5,658,734	:	
Issue Date: August 19, 1997	:	
Application No. 08/544,376	:	ON PETITION
Filed: October 17, 1995	:	
Attorney Docket No. AM9-95-038	:	

This is a decision on the petition filed September 21, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,713,485	1998-02-03	08/544,623	1995-10-18	045657-0140

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sheena Conners/	Date (YYYY-MM-DD)	2010-02-26
Name	Sheena Conners	Registration Number	63930

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5713485
Issue Date: February 3,1998
Application No. 08544623
Filed: October 18,1995
Attorney Docket No. ADDS95-01

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed February 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 26,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

MAR 27 2000

Exxon Chemical Company
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149

In re Application of	:	
DECKMAN et al.	:	
Application No.: 08/545,707	:	
PCT No.: PCT/EP94/01301	:	DECISION ON PETITION
Filing Date: 25 April 1994	:	
Priority Date: 23 April 1993	:	
Attorney Docket No.: A017	:	
For: MOLECULAR SIEVE LAYERS AND PROCESSES FOR THEIR MANUFACTURE		

This is a decision on applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed in the Patent and Trademark Office (PTO) on 15 June 1999. The required petition fee of $1210.00 (37 CFR 1.17(m)) has been charged to Deposit Account No. 05-1712.

BACKGROUND

On 25 April 1994, applicant filed international application PCT/EP94/01301 which claimed a priority date of 23 April 1993 and which designated the United States.

On 06 March 1998, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating than an oath or declaration in compliance with 37 CFR 1.497(a) or (b) and the surcharge for submitting an oath or declaration later than 30 months form the priority date must be filed. The notification set a one-month time limit in which to respond.

On 14 September 1998, applicant filed the following papers: a petition and fee for a five-month extension of time; the surcharge for submitting the declaration later than 30 months from the priority date; a declaration executed by eight of the eleven inventors; and a petition and fee for the petition under 37 CFR 1.47(a).

In a decision dated 11 May 1999, the PTO informed the applicant that the application was **ABANDONED** as of midnight 08 September 1998.

On 15 June 1999, applicant filed the present petition seeking revival under 37 CFR 1.137(b) with the appropriate fee.

DISCUSSION

A. Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the declaration filed on 08 September 1998 and 28 September 1998. Pursuant to 37 CFR 1.42, first sentence, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent." A review of the declaration filed 14 September 1998 reveals that Jannetje Maatje Van Den Berge has executed the declaration as executrix of the Estate of Johannes P. Verduijn. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 14 September 1998.

As to Item (2), the appropriate petition fee of $1210.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer filed by the applicant is not acceptable. Pursuant to 37 CFR 1.137(c), "any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The terminal disclaimer provided by the applicant states that "[t]his terminal disclaimer applies to any patent granted on the above-indentified application or any application which entitled to the benefit of the filing date of this application under 35 U.S.C. 120." Applicant has not included specific references under 35 U.S.C. 121 or 365. Therefore, applicant has not satisfied Item (4).

B. Proof of Authority under 37 CFR 1.44

Section 409.01(b), Proof of Authority of Administrator or Executor, of the Manual of Patent Examining Procedure (M.P.E.P.) states, in part:

> "In the case of foreign executors or administrators, a consular officer of the United States or a notary public from a member country to the Hague Convention Abolishing the Requirement of Legislation for Foreign Public Documents must authenticate the signature of the foreign officer attesting to the papers submitted as proof of authority. If documents are authenticated by a notary public in a member country, an apostille must be used. See MPEP § 602.04."

When an inventor is deceased, proof of authority of the legal representative should take the form of a certificate of a court of competent jurisdiction (an English translation thereof, if necessary) naming the person or persons having the legal authority to act on behalf of the deceased joint inventor. The certificate must have the signature of the official signing the document authenticated by a consular officer of the United States or be accompanied by an appropriate apostille. See MPEP 409 - 409.01(f) and 602.04.

The papers submitted on 21 September 1999 are not sufficient to establish the authority of Jannetje Maatje Van Den Berge, because the papers submitted are not court certificates, but rather documents signed by a notary and an appropriate apostille has not been provided.

CONCLUSION

For the reasons above, the petition is **DISMISSED** without prejudice.

The application remains **ABANDONED** with regards to national stage processing in the United States.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Boris Milef
Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel.: (703) 308-6314
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

NOV 30 2[redacted]

Edward F. Sherer
Exxon Mobil Chemical Company
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149

In re Application of	:	
DECKMAN et al.	:	
Application No.: 08/545,707	:	
PCT No.: PCT/EP94/01301	:	DECISION ON PETITION
Filing Date: 25 April 1994	:	
Priority Date: 23 April 1993	:	
Attorney Docket No.: A017	:	
For: MOLECULAR SIEVE LAYERS AND PROCESSES FOR THEIR MANUFACTURE		

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR 1.137(b)" and "RESUBMISSION AND PROOF OF AUTHORITY" filed 28 August 2000. In a decision dated 27 March 2000, the "PETITION TO REVIVE" filed 15 June 1999 was dismissed because the terminal disclaimer provided by the applicants was not acceptable. The three-month extension of time fee has been charged to Deposit Account No. 05-1712.

DISCUSSION

A. Petition under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c). The 06 June 2000 decision indicated that petitioner satisfied items (1), (2) and (3).

As to item (4), terminal disclaimer filed 28 August 2000 is acceptable. The terminal disclaimer has been paid.

B. Papers under 37 CFR 1.44

As of 09 September 2000, proof of authority of the legal representative is no longer required, therefore, the requirement under 37 CFR 1.44 is **DISMISSED** as moot.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is **GRANTED**.

The petition under 37 CFR 1.44 is **DISMISSED** as moot.

The application has an international filing date of 25 April 1994 under 35 U.S.C. 363 and a 35 U.S.C. 102(e) and 371(c) date of **28 September 1998.**

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

Leonard E. Smith
Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel.: 703-308-6314
Facsimile: 703-308-6459

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5676168	1997-10-14	08546591	1995-10-23	PHJM0904

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/wlp/	Date (YYYY-MM-DD)	2010-03-18
Name	Walter Price		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5676168
Issue Date: October 14,1997
Application No. 08546591
Filed: October 23,1995
Attorney Docket No. 22532-002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 19,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEYDIG, VOIT, & MAYER
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, IL 60601-6731

MAILED

JUN 09 2009

OFFICE OF PETITIONS

In re Application of :
Zelig A. ESHHAR et al :
Application No. 08/547,263 : DECISION ON PETITION
Filed: October 24, 1995 :
Attorney Docket No. 2026-4208US4 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.181(a), filed May 5, 2009, to withdraw the holding of abandonment the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The examiner in charge of this application mailed a Notice of Abandonment on March 10, 2009, reasoned on the basis of the failure of petitioner to respond to a Notice of Suspension dated April 4, 2006. In response to a final rejection dated October 19, 2001, and after an interview with the examiner on April 18, 2002, petitioner on April 19, 2002 filed a Notice of Appeal with a three-month extension of time. Petitioner subsequently filed an amendment after final dated July 19, 2002. On September 30, 2002 the Office sent a communication to applicant indicating that because the outcome of an interference had a material bearing on the patentability of the claims in the instant application, prosecution of the case was suspended for a period of six months. Upon termination of the interference on October 10, 2006, the examiner deemed the appeal to be dismissed since no appeal brief was filed. On March 10, 2009, the examiner mailed a Notice of Abandonment.

There is nothing of record that indicates that the response filed by petitioner after final places the application in condition for allowance. There is nothing present here to indicate that an appeal brief is not due. However, it is axiomatic in patent prosecution that the Office can only suspend

actions required by the USPTO; the Office cannot suspend a requirement for action by the applicant.

The provisional assumption in a suspension, that a count in an interference may or may not be prior art, does not rise to the level of an Office action which establishes a shortened statutory period for response. Also, here the subsequent suspensions dated June 29, 2004, January 24, 2005, August 17, 2005 and April 4, 2006 correctly remove the improperly signed provisional statement. Finally, a letter suspending action is not an Office action under 35 USC 132, and hence the failure to timely reply to a letter suspending action cannot result in abandonment.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03.

This application is being referred to Technology Center AU1633 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman K. Page
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,553,578	1996-09-10	08/547,474	1995-10-24	46780-0003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David Heller/	Date (YYYY-MM-DD)	2009-05-26
Name	David Heller	Registration Number	43384

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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UNITED STATES 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. 5553578
Issue Date: September 10,1996
Application No. 08547474
Filed: October 24,1995
Attorney Docket No. P124-10US

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed May 26,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 26,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 27

Swanson and Bratschun
1745 Shea Center Drive
Suite 330
Highlands Ranch, CO 80126

COPY MAILED

OCT 12 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Patent No. 6,001,647 :
Issue Date: December 14, 1999 :
Application No. 08/547,746 : ON PETITION
Filed: October 25, 1995 :
Attorney Docket No. UF141.C2 :

This is a decision on the petition filed March 13, 2000, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

In view of the granting of this petition, petitioner may request a Certificate of Correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100 therefor.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5636449	1997-06-10	08548658	1995-10-26	058631-00001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/William Spatz/	Date (YYYY-MM-DD)	2009-08-17
Name	William Spatz	Registration Number	30108

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5636449
Issue Date: June 10,1997
Application No. 08548658
Filed: October 26,1995
Attorney Docket No. GC-166

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 17,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 17,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
MAR 2 6 2010
OFFICE OF PETITIONS

EDWARD G. GREIVE
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FOURTH FLOOR
FIRST NATIONAL TOWER
AKRON, OH 44308-1456

In re Patent No. 5,658,285	:
Issued: August 19, 1997	:
Application No. 08/549,123	: ON PETITION
Filed: October 27, 1995	:
FOR: REHABITABLE CONNECTING-	:
SCREW DEVICE FOR A BONE JOINT,	:
INTENDED IN PARTICULAR FOR	:
STABILIZING AT LEAST TWO	:
VERTEBRAE	:

This is a decision on the petition under 37 CFR 1.378(b), filed February 19, 2009.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR § 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two month time limit can be granted under 37 CFR § 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking items noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. The renewed petition should be entitled "PETITION FOR RECONSIDERATION PURSUANT TO 37 CFR 1.378(e)" and should include the required petition fee of $400.00.

The patent issued August 19, 1997. The 3.5 year maintenance fee was timely paid. The 7.5 year maintenance fee could have been paid from August 19, 2004 to February 19, 2005 without a surcharge or from February 20, 2005 to August 19, 2005 with a surcharge. The maintenance fee, however, was not submitted. Accordingly, the patent expired August 19, 2005 for failure to timely submit the 7.5-year maintenance fee.

A petition to accept the unavoidably delayed payment of a maintenance fee under 37 CFR 1.378(b) must be accompanied by (1) the required maintenance fee set forth in 37 CFR 1.20(e) through (f); (2) the required surcharge set forth in 37 CFR 1.20(i)(1); and (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which

patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The instant petition fails to satisfy requirement (3) set forth above. Petitioner has failed to establish that the entire period of delay in payment of the maintenance fee was unavoidable.

A petition under 37 CFR 1.378(b) for the acceptance of an unavoidably delayed payment of maintenance fee is considered under the same standard as that for reviving an application unavoidably abandoned under 37 CFR 1.137(a). Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent no. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Rat. 1988), *aff'd sub nom.* Rydeen v. Quigg, 748 F.Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), *aff'd*, 937 F.2d 623(Fed. Cir. 1991)(table), *cert. denied*, 503 U.S. 1075(1992)). Decisions on reviving unavoidably abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

FACTS

Petitioner asserts that the Aesculap France ("Assignee") is represented in France on intellectual property matters by Cabinet Aymard & Coutel ("the Firm"). The U.S. law firm of Harrison & Egbert paid the 3.5 year maintenance fee upon instruction received by the Firm. Petitioner states that shortly before the 7.5 year maintenance fee was due, the Firm, "in the normal course of business, sought and obtained the approval of the client to pay the fee." Petitioner states that the Firm had not received a reminder that the fee was due from Harrison & Egbert. Petitioner attributes the lack of reminder from Harrison & Egbert to the change in address of the Firm. The Firm stamped their new address and instructions to pay the 7.5 year maintenance fee on a previous letter from the Harrison & Egbert. The letter containing the Firm's new address and instructions to pay the 7.5 year maintenance fee was sent by facsimile from the Firm to Harrison & Egbert on February 25, 2005. The Firm received a confirmation that that the transmission of facsimile from the Firm to Harrison & Egbert was successful.

The annuity department at the Firm, which is separate from the accounting department at the Firm, is responsible for sending client reminders for annuities and thereafter billing the clients. The annuity department at the Firm billed the client (Assignee) for the quoted amount of the 7.5 year maintenance fee, assuming that the 7.5 year maintenance fee had been paid by Harrison & Egbert. It is unclear when this billing occurred.

In 2006, the Firm started using the French firm of Acumass to coordinate maintenance fees and annuities. The Firm provided Acumass with data for the instant patent. At the appropriate time, Acumass sent the Firm a notice to pay the 11.5 year maintenance fee for the instant patent. The Firm received instructions from the client (Assignee) to pay the 11.5 year maintenance fee on January 20, 2009. Acumass instructed the U.S. firm of Brevetax LLC to pay the 11.5 year maintenance fee. On January 21, 2009, Brevetax LLC informed Acumass, who in turn informed the Firm, that the patent had lapsed for failure to pay the 7.5 year maintenance fee. The Firm contacted petitioner herein on January 21, 2009 and requested that the instant petition be filed.

Olivier Eidelsberg, patent attorney with the Firm, declares that he represents Assignee in matters of intellectual property law. Declarant further states that in 2001, the 3.5 year maintenance fee was paid on behalf of the Firm by the U.S. law firm of Harrison & Ebert.

Declarant further states that at the end of each year, the annuity department of the Firm sends a notice to Assignee identifying the patents that are in need of maintenance fees during the next year and the total amount that will be charged to Assignee for each patent. When the client (Assignee) instructs that a particular fee be paid, in due course, the Assignee is automatically billed the quoted amount.

Declarant states that such a notice was sent to Assignee. Thereafter, the Firm was instructed to pay the 7.5 year maintenance fee for the instant patent. Declarant states that on February 25, 2005, the Firm instructed Harrison & Egbert to pay the 7.5 year maintenance fee for the instant patent. The instructions were sent to Harrison & Egbert by faxing a copy of Harrison & Egbert's February 15, 2001 letter. A copy of the letter that was faxed from the Firm to Harrison & Egbert which bore the Firm's new address and included instructions to pay the 7.5 year maintenance fee was submitted as Exhibit A.

Exhibit A is a letter from Harrison & Egbert dated February 15, 2001. The letter involves confirmation from Harrison & Egbert to the Firm that, in accordance with the Firm's instructions, Harrison & Egbert had submitted the 3.5 year maintenance fee for the instant patent. The letter states that Harrison & Egbert had docketed "this matter and will contact you prior to the payment of the 7½ year Maintenance Fee."

Declarant states that the Firm never received a reminder letter concerning the 7.5 year maintenance fee for the instant patent from Harrison & Egbert. Declarant presumes the reminder letter was sent to the Firm at the Firm's previous address, the Firm having moved at the end of 2002.

Thus, declarant indicates that the Firm wrote instructions to pay the 7.5 year maintenance fee to Harrison & Egbert on a copy of the February 15, 2001 letter, stamped the Firm's new address on the same copy of the February 15, 2001, and faxed this copy of the February 15, 2001 letter to Harrison & Egbert. Exhibit B is said to be a copy of the facsimile confirmation of the copy of the February 15, 2001 letter sent from the Firm to Harrison & Egbert on February 25, 2005 informing Harrison & Egbert of the Firm's new address and instructing Harrison & Egbert to pay the 7.5 year maintenance fee for the instant patent.

DISCUSSION

The delay in timely submission of the 7.5 year maintenance fee is seemingly predicated on miscommunication between the Firm and the U.S. law firm of Harrison & Egbert. It is alleged that the Assignee engaged the Firm to docket the maintenance fee for the instant patent for payment. There is no supporting evidence of this in the record. It is further alleged that the Firm did in fact docket the maintenance fee for payment. There is no supporting documentation to this effect in the record. The declaration of Mr. Eidelsberg fails to set forth the procedure in place for docketing the patent for maintenance fee payment. It is further alleged that the Firm was relying upon the U.S. law firm of Harrison & Egbert to pay the maintenance fee on behalf of the Assignee upon instruction from the Firm. There is nothing in the record to establish that Harrison & Egbert was obligated to notify the Firm that the 7.5 year maintenance fee was due. It does not appear that the Firm relied upon Harrison & Egbert for this purpose, the Firm having independently docketed the maintenance fee due date. Moreover, it does not appear that Harrison & Egbert were obligated to pay the maintenance fee on instruction from the Firm on behalf of Assignee.

There is no indication in the record that Harrison & Egbert had docketed the 7.5 year maintenance fee due date for the instant patent, as discussed in the February 15, 2001 letter. There is no evidence that Harrison & Egbert attempted to contact the Firm to advise the Firm that the 7.5 year maintenance fee was due, despite Mr. Eidelsberg's assumption that such contact was directed to the Firm's old address. There is no indication that the Firm was in contact with Harrison & Egbert to ensure that Harrison & Egbert had received the Firm's instruction to pay the 7.5 year maintenance fee. There is no indication that Harrison & Egbert received the Firm's instruction to pay the maintenance fee beyond the copy of the facsimile confirmation contained at Exhibit B. There is nothing in the record that establishes that Harrison & Egbert were willing and able to remit the maintenance fee on behalf of the Assignee upon instruction from the Firm. There is no indication that Harrison & Egbert were available at the telephone number to which the facsimile was directed, despite the confirmation report at Exhibit B.

Despite not receiving a reminder letter from Harrison & Egbert, and prior to confirming the availability of Harrison & Egbert to act on behalf of the Assignee upon faxed instructions from the Firm, on February 25, 2005, the Firm elected to fax instructions to Harrison & Egbert. The Firm did not follow-up with Harrison & Egbert to confirm receipt of the instructions and the availability of Harrison & Egbert to pay the 7.5 year maintenance fee. The Firm does not indicate that Harrison & Egbert were reimbursed for the services that the Firm assumed were rendered, i.e., payment of the maintenance fee. Despite having little to no contact with Harrison & Egbert; the Firm relied upon a letter faxed to Harrison & Egbert to ensure that the 7.5 year maintenance fee for the instant patent would be timely paid.

Upon review of the record, including the declaration of Mr. Eidelsberg and the exhibits, it cannot be found that it was reasonable for the Firm to rely on Harrison & Egbert to pay the 7.5 year maintenance fee upon their faxed instruction to do so. A reasonably prudent person would have taken action to ensure that Harrison & Egbert were available to act on behalf of the assignee by ensuring that the instructions faxed to Harrison & Egbert were in fact received and would be

acted upon in a timely fashion. Thus, it cannot be found that the Firm took adequate steps to ensure that the maintenance fee would be timely paid.

Accordingly, it must be found that petitioner has failed to establish that the delay in payment of the maintenance fee, from the time that the maintenance fee was due until the filing of a grantable petition, was unavoidable because reasonable care was taken to ensure that the maintenance fee would be paid timely.

Any renewed petition must establish that the entire period of delay from the time that the maintenance fee was due until the time of the filing of a grantable petition has been unavoidable. Petitioner is reminded that any renewed petition should entail an exhaustive effort to establish that the failure to timely pay the maintenance fee was unavoidable as after reconsideration pursuant to 37 CFR 1.378(e), no further reconsideration regarding unavoidable delay will be undertaken.

There is no indication in the record that practitioner herein has been authorized to represent patentee. A power of attorney/change of correspondence address should be promptly submitted if practitioner desires to receive further correspondence concerning this patent. All future correspondence will continue to be directed to the correspondence address contained in the record until such time as appropriate instruction is received to the contrary.

Further correspondence regarding this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Service Window Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,688,070	1997-11-18	08549221	1995-10-27	P8149-5002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Ryan A. Schneider, Reg. #45083/	Date (YYYY-MM-DD)	2010-02-19
Name	Ryan A. Schneider	Registration Number	45083

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5688070
Issue Date: November 18,1997
Application No. 08549221
Filed: October 27,1995
Attorney Docket No. P8149-5002

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed February 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 19,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MILLENNIUM PHARMACEUTICALS, INC.
40 Landsdowne Street
CAMBRIDGE MA 02139

COPY MAILED
SEP 18 2006
OFFICE OF PETITIONS

In re Application of	:
Adams et al.	: NOTICE
Patent 5,780,454	:
Application No. 08/549,318	:
Filed: October 27, 1995	:
Issued: July 14, 1998	:

This is a notice regarding your request filed on July 19, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

37 CFR 1.28 (c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change in status to a large entity has been entered and made of record. This Notice is not intended to imply that the USPTO conducted any investigation of this matter.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,841,817	1998-11-24	08/549,565	1995-10-27	100.073US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/J. Patrick Kendrick/	Date (YYYY-MM-DD)	2007-03-23
Name	Kendrick, J. Patrick	Registration Number	53109

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5841817
Issue Date: November 24,1998
Application No. 08549565
Filed: October 27,1995
Attorney Docket No. 068765.P012

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 23,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 22

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JUL 1 4 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Davis and Wang :
Application No. 08/550,195 : DECISION REFUSING STATUS
Filed: 30 October, 1995 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 5051-279 :

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 8 December, 1999.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 October, 1995, without an executed oath or declaration and naming Robert F. Davis and Cheng Wang as joint inventors.

Accordingly, on 25 January, 1996, a "Notice To File Missing Parts Of Application" ("Notice To File Missing Parts") was mailed, requiring (a) the balance due of the basic filing fee, (b) additional claim fees, (c) an executed oath or declaration, and (d) a surcharge for their late filing. The petition filed under 37 CFR 1.147(b) on 29 May, 1996, was dismissed on 3 November, 1998, and the renewed petition under 37 CFR 1.147(b) filed on 8 February, 1999, was dismissed on 3 June, 1999.

In response, on 8 December, 1999 (certificate of mailing date 3 December, 1999),

a petition was filed under 37 CFR 1.47(a). Petitioner additionally submitted the following:

(a) a declaration signed by inventor Davis on behalf of himself and again signed by inventor Davis on behalf of inventor Wang;
(b) a statement of the last known business address of non-signing inventor Wang;
(c) request and payment for a four month extension of the time to reply to the dismissal mailed on 3 June, 1999, and
(d) the petition fee of $130.00.

A grantable petition under 37 CFR 1.47(a) requires:
(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2). In regards to item (1), petitioner has not submitted sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor. A copy of the application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. Petitioner should provide a copy of the envelope showing that the application was returned as undeliverable. Petitioner should also explain what attempts were made to obtain a forwarding address and to locate the inventor through other means. If attempts to obtain a forwarding address and to locate the inventor by other means (e.g. though e-mail or the telephone) continue to fail, then applicant will have established that the inventor cannot be reached.

Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having *first hand* knowledge of the details. The specific dates and times that the application was mailed and other attempts, such as telephone calls or e-mail searches, were made should be included.

In regards to requirement (2), the declaration is not acceptable because it lacks the post office address and residence for non-signing inventor Wang. In situations where an inventor does not execute the oath or declaration and the inventor is not

deceased, such as in an application filed under 37 CFR 1.47(a), the inventor's most recent home address must be given to enable the Office to communicate directly with the inventor as necessary.[1]

It is additionally noted that it is not necessary for the signing inventor(s) to sign the oath or declaration more than once. A declaration is acceptable if all of the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventor.

As petitioner submitted the petition fee required for a petition under 37 CFR 1.137(b) on 8 February, 1999, the petition fee of $130.00 paid on 8 December, 1999, is unnecessary and will be refunded to petitioner.

The correspondence address has been changed as indicated on the declaration filed on 8 December, 1999.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Commissions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

[1]MPEP 605.03

Telephone inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 02-01

Paper No. 26

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OFFICE OF PETITIONS
A/C PATENTS

PHILIP SUMMA PATENT ATTORNEY
SUITE 315
13777 BALLANTYNE CORPORATE PLACE
CHARLOTTE , NC 28277

In re Application of :
Davis and Wang :
Application No. 08/550,195 : DECISION NOTING JOINDER OF
Filed: 30 October, 1995 : INVENTOR AND PETITION UNDER
Attorney Docket No. 5051-279 : 37 CFR 1.47(a) MOOT

Papers filed on 2 January, 2001, in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on 14 July, 2000, included (a) a Declaration signed by the previously nonsigning inventor, Cheng Wang, in compliance with 37 CFR 1.63, and (b) a request and payment for a four month extension of the time for reply to the above-referenced Decision.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

It is noted that the signature block for joint inventor Davis on the declaration signed by joint inventor Wang does not include the inventor's mailing address. A new oath or declaration in accordance with 37 CFR 1.63 must be submitted when required by the examiner.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5626022	1997-05-06	08550457	1995-10-30	ONT-PA01CP2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James K. Sakaguchi/	Date (YYYY-MM-DD)	2009-11-11
Name	James K. Sakaguchi	Registration Number	41285

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5626022
Issue Date: May 6,1997
Application No. 08550457
Filed: October 30,1995
Attorney Docket No. ONT-PA01CP2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 11,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,612,560	1997-03-18	08/551,264	1995-10-31	22493-154

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Jean-Pierre FORTIN/	Date (YYYY-MM-DD)	2009-12-09
Name	Jean-Pierre FORTIN		
Enter Reel and Frame Number		Remove	
Reel Number	007742	Frame Number	0897
Enter Reel and Frame Number		Remove	
Reel Number	008402	Frame Number	0702
Enter Reel and Frame Number		Remove	
Reel Number	010567	Frame Number	0001
Enter Reel and Frame Number		Remove	
Reel Number	011195	Frame Number	0706
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5612560
Issue Date: March 18,1997
Application No. 08551264
Filed: October 31,1995
Attorney Docket No. 5-7

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 9,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

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Paper No. 15

HELFGOTT & KARAS, P.C.
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EMPIRE STATE BUILDING
NEW YORK, NY 10118

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Patent No. 5,867,542
Issue Date: 2 February, 1999
Application No. 08/552,543
Filed: 3 November, 1995
Attorney Docket No. FUJS-13.045

ON PETITION

This is a decision on the petition under 37 C.F.R. §1.183,[1] filed 30 June, 1999, to suspend the rules and so allow Petitioners to revive claims which Petitioners contend were "unintentionally abandoned"[2] in the instant application.[3]

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[1] The regulations at 37 C.F.R. §1.183 provide:

§1.183. Suspension of the rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(h).

[2] Implicit but unstated in this matter is an allegation that unintentional delay led to the abandonment of Petitioner's "claims 15 to 46 as originally filed[,] which were unintentionally abandoned in the above-identified application . . . ." While the petition is not pled under the regulations at 37 C.F.R. 1.137, *per se*, the analysis of necessity looks to the authorized statutory and regulatory routes for relief. The regulations at 37 C.F.R. §1.137 provide:

§1.137 Revival of abandoned application or lapsed patent.
(a) *Unavoidable*. Where the delay in reply was unavoidable, a petition may be filed to revive an abandoned application or lapsed patent pursuant to this paragraph. A grantable petition must be accompanied by:
(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to paragraph (c) of this section.
(b) *Unintentional*. Where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). A grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to paragraph (c) of this section.
(c) In a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995, any petition to revive pursuant to this section must be accompanied by a terminal disclaimer and fee as set forth in §1.321 dedicating to the public a terminal part of the term of any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c)) to the application for which revival is sought. The provision of this paragraph do not apply to lapsed patents.
(d) Any request for reconsideration or review of a decision refusing to revive an abandoned application or lapsed patent upon petition filed pursuant to this section, to be considered timely, must be filed within two months of the decision refusing to revive or within such

The Office regrets the delay in addressing this matter

BACKGROUND

Applicants/Petitioners (Petitioners) filed the application herein on 3 November, 1995, with claims 1 through and including 46.

On 2 June, 1997, the Examiner issued a restriction requirement, to which Petitioners responded on 1 July, 1997, with election of claims 1 through and including 14.

On 24 September, 1997, a non-final Office action formalized that election and specified claims 15 through and including 46 as subject to restriction.

On 11 March, 1998, the Examiner issued a final Office action, which:

- rejected claim 1;
- allowed claims 2 through and including 14; and
- withdrew from consideration claims 15 through and including 46.

In response, Petitioners filed after-final amendments on 10 June, 1998.

On 24 June, 1998, the Examiner issued an Advisory Action, which, *inter alia*, refused entry of the after-final amendments because they raised new issues requiring further consideration or search.[4]

Petitioners then filed on 13 July, 1998, a Continued Prosecution Application (CPA) under the provisions of 37 C.F.R. §1.53(d)--one of the three proper responses to a

---

time as set in the decision. Unless a decision indicates otherwise, this time period may be extended under the provisions of §1.136.
(e) A provisional application, abandoned for failure to timely respond to an Office requirement, may be revived pursuant to this section so as to be pending for a period of no longer than twelve months form its filing date. Under no circumstances will a provisional application be regarded as pending after twelve months from its filing date,

[3] Likewise, Petitioner may find no relief under the provisions of 37 C.F.R. §1.171, et seq. (Reissue), or 37 C.F.R. §1.510, et seq. (Reexamination).

[4] Clarification: The Examiner's Advisory Action indicates that the after-final amendments were filed on 16 June, 1998, and, indeed, that is the date on which they were clocked into Group 2700. However, the record demonstrates that the amendments were "Received in Box Interference" at the Office on 10 June, 1998.

final rejection.[5] Therein Petitioners requested entry of the previously filed June amendments.

On 4 August, 1998, the Examiner Issued a Notice of Allowability over an Examiner's Amendment--which cited as authorization a telephone interview with Petitioners' Counsel (Counsel) Samson Helfgott on 31 July, 1998. That Notice specified that:

- the allowed claims were claims 1 through and including 14;
- "[t]he non-elected claims 15 [through and including] 46 have been canceled"; and
- Petitioners were required to file formal drawings.

Contemporaneously with the mailing of the Notice of Allowability on 4 August, the Examiner mailed the Notice of Allowance and Issue Fee Due.

Over an Express Mail Certificate of 3 November, 1998, Petitioners filed the formal drawings and paid the Issue Fee (enclosing therewith the Issue Fee Transmittal Form (PTOL-85B)).

Without further action by Petitioners, Application No. 08/552,543 (the '543 Application) issued as U.S. Patent No. 5,867,542 (the '542 Patent) on 2 February, 1999.

The instant petition states that:

> Petitioner hereby requests that the Commissioner revive claims 15 [through and including] 46 as originally filed which were unintentionally abandoned in the above-identified application in order to allow applicants to file a divisional application covering these claims.[6]

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[5] The proper response to the final Office action must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a continuing application. (See: Fn. 2, items (a)(1) and (b)(1); MPEP 711.03(c).)

[6] The petition continues in its entirety:

The above-identified application was filed on [3 November 1995]. The [E]xaminer issued a first office action dated [2 June, 1997], in which six patentably distinct species were identified in the claimed invention, and required the applicants to elect a single disclosed species for prosecution on the merits. In response to the first office action, applicants filed an election on [1 July, 1997,] electing the species of Figure 1, claims 1 [through and including] 14 for examination on the merits.

In the second office action, dated [24 September, 1997], the [E]xaminer withdrew claims 15 to 46 from further consideration as being drawn to a non-elected species.

In the third office action made final, dated [11 March, 1998], the [E]xaminer again noted that claims 15 [through and including] 46 have been withdrawn from consideration and as claims 15 [through and including] 46 are directed to an invention non[-]elected without traverse, a complete reply to the final rejection must include a cancellation of the

In support of the petition, Petitioners submit *inter alia* the declaration of Angela Haussermann (Ms. Haussermann), a filing clerk with the firm of Helfgott & Karas, P.C.[7]

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non[-]elected claims or other appropriate action.

In response to the final office action, applicants filed an amendment on [10 June, 1998], which made further amendments to the claim[s] 1 [through and including] 14. The [E]xaminer issued an advisory action dated [24 June, 1998,] noting that the amendment would not be entered as it raised new issues that would require further consideration and/or search. Thus, it became necessary for applicants to file a continued prosecution application (CPA), which was filed on [13 July, 1998].

After applicants' filing of the CPA, the amendment dated [10 June, 1998,] was entered. The [E]xaminer then issued a [N]otice of [A]llowance dated [4 August, 1998,] with a [N]otice of [A]llowability and an [E]xaminer's [A]mendment which canceled non-elected claims 15 [through and including] 46.

Applicants' U.S. attorneys, Helfgott & Karas, P.C., notified applicants' Japanese agent, Sanada & Associates, that the application had been allowed and that the issue fee was due on [4 November, 1998]. In a letter dated [27 October, 1998,] applicants' Japanese agent, instructed applicants' U.S. attorneys to pay the issue fee for the application covering claims 1 [through and including] 14 and to file a divisional application to include claims 15 [through and including] 46. [Content of letter as Fn. 8]. The issue fee was paid on [3 November, 1998,] and a patent covering claims 1 [through and including] 14 issued on [2 February, 1999]. However, due to an oversight, as described in the attached declaration of Angela Haussermann [Content of letter as Fn. 7], despite applicants' Japanese agent's specific instructions to applicants' U.S. attorneys, applicants' U.S. attorneys did not file a divisional application to cover claims 15 [through and including] 46. Thus, Claims 15 [through and including] 46 were unintentionally abandoned.

In a letter dated [16 March, 1999], in addition to inquiring of another matter pertaining to the current application, applicants' Japanese agent noted its earlier instructions to applicants' U.S. attorneys to pay the issue fee and file the divisional [Content of letter as Fn. 10]. It was upon receipt of this letter form applicants' Japanese agent that applicants' U.S. attorneys became aware of the unintentional abandonment of claims 15 through and including] 46 of the above-identified application. It was never the applicants' intention to abandon claims 15 [through and including] 46 of the above-identified application.

Petitioners/applicants hereby petition the Commissioner to suspend the rules pursuant to 37 C.F.R. §1.183, in order to revive unintentionally abandoned claims 15 [through and including] 46 so that applicants may file a divisional application covering these claims. Applicants are enclosing herewith a divisional application for claims 15 [through and including] 46.

Favorable consideration is solicited.

Any fee due with this paper not covered by an enclosed check may be charged on Deposit Account Number 08-1634.

Respectfully submitted,

s/Samson Helfgott
HELFGOTT & KARAS, P.C.
(Emphasis supplied.)

[7] The declaration states in its entirety:

I, Angela Haussermann, hereby declare that:

1. I have been employed as a Filing Clerk since [2 February, 1998,] for the firm of Helfgott & Karas, P.C. whose offices are located at 350 Fifth Avenue, 60th Floor, New York, New York 10118;

2. My duties as an employee of Helfgott & Karas, P.C. include notifying clients of the receipt of [N]otices of [A]llowance, paying Issue Fees when authorized by the client, and forwarding Letters Patents to clients.

3. In October of 1998, I received a letter dated [27 October, 1998,] from Sanada & Associates [Content of letter as Fn. 7]. The letter instructed that Helfgott & Karas, P.C. pay the issue fee for the above-identified application prior to the due date of [4 November, 1998].

Petitioners also place in evidence two (2) letters from their Japanese agents, Sanada & Associates (Sanada).

The first Sanada letter, dated 27 October, 1998,[8] is:

- ostensibly a response to notification of allowability and allowance;
- an authorization to pay the Issue Fee; and

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4. When I received the letter dated [27 October, 1998,] from Sanada & Associates, I neglected to note that the letter also instructed us to file a divisional application to include claims 15 [through and including] 46 of the above-identified application. As a result, I placed the letter in the file without notifying anyone that the applicants wanted us to file a divisional for the above-identified application.

5.On [3 November, 1998], I completed the necessary forms and had the issue fee paid for the above-identified application, again without noting that it was our clients' intention to file a divisional application for claims 15 [through and including] 46 of the above-identified application.

6. As a result, the divisional for the above-identified application was not filed, I was not aware of the Applicants' intention to file a divisional for the above-identified application until receipt by Helfgott & Karas, P.C. of the letter from Sanada & Associates dated [16 March, 1999], after the patent for the above-identified application issued, again reiterating the Applicants' intention to have had a divisional filed and the issue fee paid for the above-identified case [Content of letter as Fn. 8].

7. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon

Date: 6/30/99

s/Angela Haussermann
HELFGOTT & KARAS, P.C.

[8] The letter of 27 October, 1998, from Sanada & Associates states in its entirety:

Dear Ms. Haussermann:

Thank you for your reminder facsimile of [22 October, 1998].

Our client wishes to have the present application (claims 1 [through and including] 14 issued as allowed and also to have a single divisional application filed which includes claims 15 [through and including] 46 (these claimed (sic) have been divided into five groups by the Examiner and have not yet been subjected to further examination.) Our new reference number for this divisional application is **F0.144.9411138.D1-US**.

Please kindly attend to the filing of the divisional application and the payment of the Issue Fee on or before the due date of [**4 November, 1998**,] and send to us the Official Receipt for the payment. Also, please proceed with any other procedures required to obtain issuance of the patent.

Please kindly acknowledge receipt by return facsimile.

Very truly yours,

SANADA & ASSOCIATES
S/Tamotsu Sanada
Patent Attorney (Emphasis, the original.)

- an instruction to file "a single divisional application" to recapture for prosecution in another application claims 15 through and including 46--the twenty-two (22) claims restricted from prosecution in the instant application.[9]

The 16 March, 1999,[10] Sanada letter is a follow-up inquiry after the 27 October communication, and--after the application has terminated in an issued patent--recalls Sanada's request that Counsel file a divisional application as to the claims previously restricted.[11]

STATUTES AND REGULATION

Congress has provided at 35 U.S.C. §(6)(a), in pertinent part, that:

> The Commissioner . . . may, subject to the approval of the Secretary of Commerce, establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent and Trademark Office.

Through Public Law 97-247, §3, 96 Stat. 317 (1982), which revised patent and trademark fees, Congress provided for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable."

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[9] As a matter of completeness, it is worth while to note that the Examiner's restriction requirement indicated that these claims represented multiple--as many as five (5)--patentably distinct species.

[10] The letter of 16 March, 1999, from Sanada & Associates states in its entirety:

Dear Sirs:

Further to our facsimile of [27 October, 1998], asking you to pay the Issue Fee and file the divisional application, we have just received a search report from the European Patent Office for the European counterpart application of the above-captioned application.

The applicant has been reviewing the cited references to decide the relativity of the references to the present application.

We believe that the Issue Fee for the application had already been paid although the completion of the payment has not yet been reported to us. In our understanding, if the references are found to be important enough to make the Examiner to consider them, a CPA should be filed before the issuance of the patent.

Accordingly, please let us know the date of issuance of the patent as soon as possible.

Very truly yours,

SANADA & ASSOCIATES
S/Tamotsu Sanada
Patent Attorney

[11] However, this time Sanada misstates the filing as a continued prosecution application (CPA) rather than a divisional application.

Specifically, the codification at 35 U.S.C. § 41(a)(7) provides that the Commissioner shall charge a fee:

> [o]n filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent . . . .

Further, as noted at Fn. 2, above, the regulations at 37 C.F.R. §1.137(b) set forth the mechanism for reviving applications abandoned due to "unintentional" delay in the prosecution thereof. Under those regulations, a petition to revive must be accompanied by:

- the required reply (unless previously filed);
- the petition fee;
- a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional (the Commissioner may require additional information where there is a question whether the delay was unintentional); and
- any terminal disclaimer (and fee) that might be required.

ANALYSIS

The Law Permits Revival of an Application

Petitioners confuse the nature of that which they have lost with a remedy provided by Congress: Petitioners have lost the right to prosecute certain claims formerly alive within their application, while Congress has provided a remedy for revival of an application, *per se*.

Claims are but a component of an application, and are not of themselves an application.[12]

Moreover, an application exists in one of three conditions. Either it is pending, or patented, or abandoned.[13]

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[12] Cf: 35 U.S.C. §111 (a)(2)(A, B, and C): Application; and 35 U.S.C. §112, paragraph 2: Specification: claims.

[13] See: In re Morganroth, 6 USPQ2d 1802, 1803 (Comm'r Pats. 1988).

And, under the provisions of 35 U.S.C. §120, proceedings in an application are concluded in three ways: the application may issue as a patent or become abandoned, or proceedings in the application may be terminated.[14]

When an application issues as a United States Patent, proceedings in the application are terminated upon issue. Once an applicant pays the issue fee in reply to a Notice of Allowance, the Office has little discretion but to issue the patent, as it did here.[15]

Where proceedings in an application are terminated by way of the granting of a patent, the application is neither pending nor abandoned--it is patented.[16] Once the patent has been granted, the Office can take no action concerning it, except as provided in 35 U.S.C.§135, §§251 through 256, and §§302 through 307.[17]

The patent statute at 35 U.S.C. §41(a)(7) authorizes the Commissioner to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office greater discretion (than allowed under 35 U.S.C. §§133 or 151) to revive abandoned applications in appropriate circumstances. Nonetheless, the statute places a limit on this discretion, stating that "[u]nder this section a petition . . . would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable."[18]

Thus, the Commissioner's authority to revive is limited to applications that are abandoned within the meaning of 35 U.S.C. §§41(a)(7), 111, 133, and 151.[19]

A basic tenet of statutory construction is that the mention of one thing implies exclusion of another. Absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation the statute is deemed to exclude other remedies for such situation.[20]

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[14] Id.

[15] See: 35 U.S.C. §151 ¶2: Upon payment of the issue fee, "the patent shall issue."

[16] See: Chapter 15, 35 U.S.C.

[17] See: MPEP 1306.

[18] See: H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71.

[19] See: Morganroth v. Quigg, 885 F.2d 843, 847, 12 USPQ2d 1125, 1128 (Fed. Cir. 1989)(the Commissioner lacks the authority to revive an application abandoned by termination of court proceedings because 35 U.S.C. §§ 41(a)(7), 133, or 151 do not provide for the revival of an application abandoned in such a manner).

[20] *"Expressio unius est exclusion alterius."* See: National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also: Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929): "[W]hen a statute limits a thing to be done in a particular mode, it includes the negative of any other mode."

Congress has provided in Public Law 97-247 a specific scheme for the revival of abandoned applications--*i.e.*, the specific situations under which the Office may revive an abandoned application and the requirements (standards and fees) applicable to each specific situation.

Thus, the creation or furtherance of a scheme for the revival of something that is not an abandoned application--but rather is a patent or are unprosecuted claims--would be inconsistent with the patent statute and improper as a matter of law.

Because 35 U.S.C. §41(a)(7) and 37 C.F.R. §1.137(b) do not apply to the situation of the above-identified application--*i.e.*, to the revival of an issued patent or restricted unprosecuted claims--those facts preclude the Commissioner from "reviving" an application unabandoned or claims unprosecuted.

Stated another way, the Office has no jurisdiction to revive an application which enjoys the status of a properly issued patent or claims that were stripped from consideration and not otherwise properly protected in the form of an application for future prosecution.

A failure to file timely a divisional application does not warrant relief from the consequences of that delay with respect to the original application.[21]

Rather, applicant's failure to file timely another application is simply not germane to any question of error or delay in the prosecution of the original application.[22]

The instant application is patented--not abandoned. And claims 15 through and including 46 were canceled without traverse--stripped from consideration as though they never existed in the application. They are not an application.

The Issue of Intent

Even if, for purposes of discussion, the Congressional grant of jurisdiction could be read to construe the unprosecuted claims 15 through 46 as "an abandoned application," the Office would be barred from granting the relief sought.

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[21] See: In re Watkinson, 900 F.2d. 230, 14 USPQ2d 1407 (Fed. Cir. 1990).

[22] See: In re Orita, 550 F.2d 1277, 1281, 193 USPQ 145, 148-149 (CCPA 1977).

In the absence of demonstrable deception by the attorney/agent[23]--the act(s) or omissions of the attorney/agent are imputed wholly to the applicant/client.[24]

Petitioner's statements suggest no deception by Counsel. And Petitioners' failure to require evidence of the filing of a divisional application contemporaneously with the non-extendable due-date payment of the Issue Fee evidences no diligence on their part.

Petitioners' inactions--personally and through their Counsel--are inconsistent with:

- a decision to maintain prosecution of the restricted claims 15 through and including 46; and
- the diligence required of Petitioners to evidence unintentional delay.

There is no evidence in the record to demonstrate that Petitioners took any action or had any intention of taking action to preserve the restricted claims 15 through and including 46 by filing a divisional application during the fourteen- (14-) month period from restriction (2 June, 1997) through Notice of Allowance (4 August, 1998).

To the contrary, Petitioners:

- accepted without traverse the restriction requirement; and
- agreed to the Examiner's Amendment; and

did so without any evidence of intent to preserve for prosecution the restricted claims 15 through and including 46.

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[23] When an attorney intentionally conceals a mistake he has made, thus depriving the client of a viable opportunity to cure the consequences of the attorney's error, the situation is not governed by the stated rule in Link for charging the attorney's mistake to his client. In re Lonardo, 17 USPQ2d 1455 (Comm'r. Pat. 1990).

[24] The actions or inactions of the attorney/agent must be imputed to the petitioners, who hired the attorney/agent to represent them. Link v. Wabash Railroad Co., 370 U.S. 626, 633-634, 82 S.Ct. 1386, 1390-91 (1962). The failure of a party's attorney to take a required action or to notify the party of its rights does not create an extraordinary situation. Moreover, the neglect of a party's attorney is imputed to that party and the party is bound by the consequences. See Huston v. Ladner, 973 F.2d 1564, 23 USPQ2d 1910 (Fed Cir. 1992); Herman Rosenberg and Parker-Kalon Corp. v. Carr Fastener Co., 10 USPQ 106 (2d Cir. 1931).

Such action and inaction are inconsistent with a showing of diligence in the prosecution of the restricted claims,[25] and would of themselves preclude revival under 37 C.F.R. §1.137.[26]

Therefore, even if the claims in question could be construed as "an abandoned application" for the purpose of providing a revivable entity--*i.e.*: an application--in light of the facts herein, the "application" could not and cannot be considered as one unavoidably or unintentionally abandoned within the meaning of 35 U.S.C. §§41(a)(7) and 133 and/or 37 C.F.R. §1.137.

Finally, while the Commissioner has the authority to waive regulatory provisions in the interest of justice, the Commissioner does not have the authority to waive the statutory provisions of 35 U.S.C. §§41(a)(7), 111, 133, and 151.

Accordingly, Petitioners cannot establish to the satisfaction of the Commissioner unavoidable or unintentional delay within the meaning of 35 U.S.C. §§41(a)(7), 111 and/or 133, and/or 37 C.F.R. §1.137.[27]

No Relief Under 37 C.F.R. §1.183

Likewise, Petitioners can find no relief under 37 C.F.R. §1.183 because there is no authority in statute enabling the Office or Petitioners to revive claims (that Petitioners elected not to prosecute in the '543 Application, which was allowed and issued as the '542 Patent) in order that Petitioners might include those claims in a to-be-filed divisional application that might properly claim 35 U.S.C. §120 benefit from the '543 Application.

Rather, §120 by its terms specifically requires that--for the requested revival of the claims in question for their inclusion in any continuing application claiming §120 benefit of the '543 Application--the later application would have to be "filed before the

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[25] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[26] That an applicant may have been preoccupied with other matters that took precedence over the revival of an abandoned application is not viewed as an adequate justification for delay. See: Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Rather, the revival of an application that was not intentionally abandoned is the applicant's "most important business." See Ex parte Pratt, 1887 Dec. Comm'r Pats. 31, 32-33 (1887). Specifically, an applicant seeking revival of an abandoned application is expected to file a petition under 37 C.F.R. §1.137 within two to three months of discovering its abandonment. See: In re Kokaji, 1 USPQ2d 2005, 2007 (Comm'r Pats. 1986); see also: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53161, 1203 Off. Gaz. Pat. Office at 88-89 (response to comment 65).

[27] See: Application of G, 11 USPQ2d at 1380; In re Application of S, Id.

patenting" of the above-captioned application. That is a requirement that manifestly cannot now be met.

Petitioners do not have to seek extraordinary action, remedy, or intervention to present claims 15-46 in an application. In fact there is no *per se* §120 prohibition against Petitioners filing under 35 U.S.C. §111 an application containing the desired specification and drawings to effectuate the prosecution of claims 15-46.

The rub is that Petitioners are not able to meet the statutory requirements for claiming therein §120 benefit of the '543 Application, and the Office is without authority to alter those requirements.[28]

And as noted earlier at Fn. 1, 37 C.F.R. §1.183 contains within itself a limitation on its reach:

> . . . any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed . . . . (Emphasis supplied.)

Therefore, the Office is without authority to grant the relief requested.

Petitioners' own showing of record is that the Office neither caused nor contributed to Petitioners' failure to present timely in a divisional application claims 15-46.[29]

Specifically:

- Counsel knew (or should have known) from the 31 July, 1998, interview (Event 1) with the Examiner, memorialized in the 4 August, 1998, Examiner's Amendment (Event 2) that claims 15-46 had been canceled therein, and--if patent protection was desired for that subject matter--the claims would have to be represented in a timely divisional application prior to issue of the '543 Application as the '542 Patent;

- following the 4 August, 1998, mailing of the Notice of Allowance and Issue Fee Due (Event 3), the Issue Fee was paid on 3 November, 1998 (Event 4). Once

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[28] See: Baxter International Inc. V. McGaw Inc., 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998).

[29] Delay resulting from the inadvertence or mistake of an applicant or an applicant's representative does not warrant equitable relief. And equitable powers are not to be invoked to excuse the performance of a party not acting with reasonable due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983); Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 877, 982 (D.C.Cir. 1982).

the applicant pays the Issue Fee, the Office has little discretion but to issue the patent in regular course;[30] and

- Counsel was notified by way of the Weekly Patent Issue Receipt mailed 7 January, 1999 (Event 5), of the imminent issue of the '543 Application as the '542 Patent.

Clearly, when the '542 Patent issued on 2 February, 1999, Petitioners had traveled through five (5) events over a period of more than six (6) months between the 31 July, 1998, interview and the 2 February, 1999, issue within which to present claims 15-46 in an application that might claim §120 benefit of the '543 Application.

The Office should not relax the requirements of established practice, even if authorized and empowered to do so, in order to save applicants from the consequence(s) of their own delay.[31]

Counsel's clerical inadvertence or error that caused or contributed to the delay in filing the divisional application (exemplified here in Ms. Haussermann's declaration) is not ground for requesting waiver of the regulations.[32]

Therefore, there is no adequate showing of an "extraordinary situation" in which "justice requires" suspension of the time period set forth in 37 C.F.R. §1.193(b).[33]

Circumstances resulting from Petitioners' failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not in any event extraordinary circumstances where the interests of justice require the granting of relief.[34]

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[30] See: Fns. 15 and 17. See also: 35 U.S.C. §151¶2: upon payment of the issue fee, "the patent shall issue." The Commissioner may adopt rules permitting applications to be withdrawn from issue after payment of the issue fee in situations in which the applicant is not entitled to a patent under the law. Harley v. Lehman, 981 F.Supp. 9, 11-12, 44 USPQ 1699, 1701-02 (D.D.C. 1997). The Commissioner is not authorized to withdraw an application from issue after payment of the issue fee on an *ad hoc* basis, but only in situations which meet the conditions of 37 C.F.R. §1.313(b). Sampson v. Dann, 466 F.Supp. 965, 973-74, 201 USPQ 15, 22 (D.D.C. 1978).

[31] See: Ex Parte Sassin, 1906 Dec. Comm'r Pat. 205, 206 (Comm'r Pat. 1994); Cf: Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968), and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975).

[32] See: In re Kabushidi Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

[33] See: Nitto Chem. Indus. Co. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994): The fact that party makes an avoidable mistake in filing papers does not constitute extraordinary circumstances and does not require waiver of the rules.

[34] See: In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1997): In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pat, 1977); Huston v. Ladner, 973 F.2d 1564, 23 USPQ2d 1910 (Fed Cir. 1992).

CONCLUSION

The circumstances of this matter do not demonstrate extraordinary circumstances within the meaning of 37 C.F.R. §1.183 or unavoidable or unintentional delay in the prosecution of an application within the meaning of 35 U.S.C. §§41(a)(7) and 133, and 37 C.F.R. §§1.137.

To the limited extent that this matter has been considered under 37 C.F.R. §1.183,[35] the petition is granted.

In all other respects, the petition is **DENIED**.

Accordingly, the claims 15 through and including 46 cannot and will not be revived.

This decision may be viewed as final agency action.[36]

This application file is being forwarded to Files Repository.

Telephone inquiries regarding this decision should be directed to Petitions Attorney John J. Gillon, Jr. at (703) 305-9199.

M. A. Antonakas

Manuel A. Antonakas
Director
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[35] And viewed in light of 35 U.S.C. §41(a)(7) and 37 C.F.R. §1.137.

[36] See: MPEP 1002.02(b). The provisions of 37 C.F.R. §1.137(d) do not apply to this decision.

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Paper 26

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Van Der Ploeg, et al.
Application No. 08/554,424
Filed: 6 November, 1995
Attorney Docket No.: 19338CDCPA2

This is a decision on the petitions filed on 1 November, 2001, respectively and alternatively, under 37 C.F.R. §1.181[1] seeking the withdrawal of the holding of abandonment and 37 C.F.R. §1.137(b)[2] to revive an application abandoned due to unintentional delay.

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[1] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:

§1.181 Petition to the Commissioner.
(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declaration (and exhibits, if any) must accompany the petition.
(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.
(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed. * * *
(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * *

[2] The regulations at 37 C.F.R. §1.137 provide in pertinent part:
§ 1.137 Revival of abandoned application, terminated reexamination proceeding, or lapsed patent.
* * *
(b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.
(c) *Reply.* In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.
* * *
[47 Fed. Reg. 41277, Sept. 17, 1982, effective Oct. 1, 1982; para. (b) 48 Fed. Reg. 2713, Jan. 20, 1983, effective Feb. 27, 1983; paras. (a) - (c), paras. (d) & (e) added, 58 Fed. Reg. 44277, Aug. 20,1993, effective Sept. 20, 1993; para. (c) revised, 60 Fed. Reg. 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (c) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Sept. 8, 2000; revised, 65 Fed. Reg. 57024, Sept. 20, 2000, effective Nov. 29, 2000]

The petition under 37 C.F.R. §1.181 is **DISMISSED** for reasons as set forth below,[3] and the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

A review of the record reveals:

- in response to a Continued Prosecution Application filed on 14 April, 2000 (the April 2000 CPA), the Office mailed A the Notice of Missing Parts on 25 April, 2000 (the April Notice), requiring that Petitioner pay the basic filing fee of $690.00 and the $130.00 surcharge for delayed payment of the basic filing fee and file this response within two months of the Notice, however, the April 2000 Notice was mailed to Petitioner's former address (at Anderson Ct. in Orlando, FL);
- the office remailed the April Notice on 26 July, 2000 (the July Notice), this time to Petitioner's new address (at Hillcrest St. in Orlando, FL);
- when Petitioner failed to reply timely and properly to the July Notice, the Office mailed a Notice of Abandonment on 27 February, 2001, to Petitioner's Hillcrest St. address;
- on 1 November, 2000, Petitioner filed the instant petition with:

  --credit card authorization sufficient for the petition fee, basic filing fee and delayed-payment surcharge;

  --Petitioner's chronology of events and characterization thereof;

  --a Terminal Disclaimer and credit card authorization for the fee.

In short, Petitioner contends he was confused:

- although the coversheet of the July Notice contained the Hillcrest St. address, the attached April Notice contained the Anderson Ct. address;
- as a result, Petitioner alleges that it was his belief that the April and July 2000 Notices were erroneously mailed by the Office in response to an earlier CPA filed in October 1999--and not the April 2000 CPA;
- moreover, while Petitioner changed his docket number when he filed the April 2000 CPA from "19338DA" to "19338CDCPA2," the April and July Notices referenced a the old docket number.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is

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[3] Pursuant to Petitioner's authorization, the petition fee of $1,280.00, the basic filing fee of $740.00 (The fee was $690.00 when the Notices were mailed, however, during the period in which Petitioner delayed the fee schedule changed) and the delayed-payment surcharge of $130.00 are charged to the credit card account listed.

shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4] And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably[5] or unintentionally, respectively, abandoned application under this congressional grant of authority. Further, Petitioner must evidence at least such diligence in addressing a question of abandonment as one must evidence in the prosecution of the application--i.e., such diligence as one would give to one's most important business affairs.[6]

Moreover, the courts have determined the construct for properly supporting an allegation of non-receipt of an Office action in seeking withdrawal of a holding of abandonment.[7]

Petitioner's Argument of Confusion

The April 2000 Notice--the one Petitioner claims confused him because, *inter alia*, it contained an old address and docket number, states in the first paragraph:

> The Continued Prosecution Application (CPA) request filed on APRIL 14, 2000, is entitled to a filing date under 37 C.F.R. §1.53(d)(1). The CPA request, however, lacks the filing fees(s) and/or items indicated below. (Emphasis supplied.)

There is no question that the Notice addresses the April 2000, and not the October 1999, CPA--unless, of course, one fails to read the Notice.

Attached to the July Notice was a copy of the April Notice and a one-page form that:

- informed Petitioner the two- (2-) month response time was restarted;
- states expressly: "Remailed Office action . . . which was mailed to the wrong address"; and

---

[4] 35 U.S.C. §133 provides:

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

[5] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional. Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887). See also: In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). Decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition cannot be granted where a petitioner has failed to meet his or her burden of proof. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

- set forth the name and the telephone number of the person at the Office who could answer Petitioner's questions regarding the mailing.

Thus, without reading the text of the Notices mailed to him in July 2000 Petitioner let the reply deadline pass without any response or inquiry, yet Petitioner argues that the holding of abandonment should be withdrawn because he was confused.[8]

It is an interesting argument--but one which is wholly unpersuasive because it has no basis in law.

To the contrary, as noted earlier the statutory provisions at 35 U.S.C. §133 (1994) mandate abandonment in the absence of proper timely reply to an Office action or Notice, and the regulations at 37 C.F.R. §1.134[9] and §1.135[10] provide similar requirements and effects.

As is clear, Petitioner fails to satisfy the burdens set forth in Delgar v. Schulyer.

Withdrawal of the holding of abandonment is not proper.

Alternative Venue

Petitioner has satisfied the requirements for revival under 37 C.F.R. under 37 C.F.R. §1.137(b).[11]

Therefore, for the reasons stated above the petition under 37 C.F.R. §1.181 is **dismissed**, and the petition under 37 C.F.R. §1.137(b) is **granted**.

This application is being forwarded to Technology Center 1600 for further processing.

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[8] As for Petitioner's change of docket number from "19338DA" to "19338CDCPA2," it is unfortunate that the Office did not pick up this change made by Petitioner, however, it is notable that in filing his Rule 53(d) CPA--which retains the same file number, wrapper and prosecution history--Petitioner failed to note for the Office that he was making this change. In fact, Petitioner did not file a Notice of Change of Address when he moved, but rather included that change only in the Transmittal Sheet for the April 2000 CPA Request.

[9] The regulations at 37 C.F.R. §1.134 provide:
§ 1.134 Time period for reply to an Office action.
An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.
[47 Fed. Reg. 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[10] The regulations at 37 C.F.R. §1.135 provide:
§ 1.135 Abandonment for failure to reply within time period.
(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a *bona fide* attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.
[Paras. (a), (b), and (c), 47 Fed. Reg. 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 Fed. Reg. 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[11] See: Fn. 2.

Telephone inquiries should be directed to John J. Gillon, Jr., Attorney, Office of Petitions, at (703) 305-9199.

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 21 2004

BEUSSE BROWNLEE WOLTER MORA & MAIRE
390 N. ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

In re Application of:
Ver der Ploeg et al.
Serial No.: 08/554,424
Filed: November 6, 1995
Attorney Docket No.: 19338DA

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR. § 1.181(a) filed on January 16, 2004, requesting withdrawal of the holding of abandonment based on the Office's non-receipt of a faxed reply to an Office action.

A review of the file history shows that the Office mailed an Office action, setting a 3 month statutory time period for reply, to applicants on May 20, 2003. On December 29, 2003, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response was filed by facsimile on August 20, 2003. Applicants provide a copy of the submitted reply with the petition, and also a copy of the facsimile transmission report indicating successful transmission of all ten pages to the USPTO on August 20, 2003 at 3:50 PM. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. This application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for consideration of the amendment.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 22

LAURA A. CORUZZI
PENNIE & EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

COPY MAILED

MAR 06 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Dani P. Bolognesi, et al
Application No. 08/554,616
Filed: November 6, 1995
Attorney Docket No. 7872-035

ON PETITION

This is a decision on the petition, filed January 10, 2000, to withdraw the above-identified application from issue pursuant to the provisions of 37 CFR 1.313(b)(5).

The petition is granted.

Petitioner requests that the above-identified application be withdrawn from issue to permit abandonment for consideration of an Information Disclosure Statement in a continued prosecution application filed of even date.

The application is withdrawn from issue.

Petitioner is advised that the issue fee paid on March 1, 1999 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed January 10, 2000.

The application will be forwarded to Technology Center 1600 for processing the CPA.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
12390 EL CAMINO RD
SAN DIEGO CA 92130

COPY MAILED
JAN 06 2009

In re
Thomas G. Woolston
Application No. 08/554,704
Filed: November 7, 1995
Patent No. 5,845,265
Issued: December 1, 1998

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 7, 2007.

The fee deficiency submission under 37 CFR 1.28 of $1700, representing the difference between the small entity and large entity 3 ½ year and 7 ½ year maintenance fees, is hereby **accepted**.

The change of status to large entity has been entered.

$1700 has been charged to Deposit Account No. 06-1050, as authorized.

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

Cliff Congo
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5681333	1997-10-28	08555335	1995-11-08	A8130.0177/P177

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SAS/	Date (YYYY-MM-DD)	2009-12-23
Name	Stephen A. Soffen	Registration Number	31063

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 5681333
Issue Date: October 28,1997
Application No. 08555335
Filed: November 8,1995
Attorney Docket No. P/1493-83

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 23,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 23,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA, GA 30309

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NOV 28 2006
OFFICE OF PETITIONS

In re Patent No. 5,737,309 :
Issue Date: April 7, 1998 :
Application No. 08/556,229 : ON PETITION
Filed: November 9, 1995 :
Patentee: Lujack Ewell, et al. :

This is a decision on the petition under 37 CFR 1.378(c), filed July 24, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Further, there is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified patent. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose behalf he/she acts.

The petition is GRANTED.

The 7 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner is reminded that if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

The file is being forwarded to the Files Repository.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,819,182	1998-10-06	08/556,350	1995-11-13	100.375US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/J. Patrick Kendrick/	Date (YYYY-MM-DD)	2007-03-20
Name	J. Patrick Kendrick	Registration Number	53109

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5819182
Issue Date: October 6,1998
Application No. 08556350
Filed: November 13,1995
Attorney Docket No. 2187-022

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 20,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 20,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5566736	1996-10-22	08556484	1995-11-13	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kenneth M Bush/	Date (YYYY-MM-DD)	2009-03-31
Name	Kenneth M. Bush	Registration Number	40544

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5566736
Issue Date: October 22,1996
Application No. 08556484
Filed: November 13,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 31,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 31,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 27

RICHARD K WARTHER
ALLEN DYER DOPPELT MILBRATH & GILCHRIST, PA
255 S. ORANGE AVENUE, SUITE 1401
P.O. BOX 3791
ORLANDO, FL 32802

COPY MAILED

APR 0 6 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Patent No. 6,047,165 :
Issue Date: April 4, 2000 :
Application No. 08/557,269 : ON PETITION
Filed: November 14, 1995 :
Attorney Docket No. 118/35451 :

This is a decision on the petition filed February 15, 2001, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is granted.

Telephone inquiries concerning this matter may be directed to Wan Laymon at (703) 306-5685. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Frances Hicks
Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5600307	1997-02-04	08557937	1995-11-14	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Richard Bente/	Date (YYYY-MM-DD)	2009-02-05
Name	Richard Bente		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5600307
Issue Date: February 4,1997
Application No. 08557937
Filed: November 14,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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MAR 2 0 2006
OFFICE OF PETITIONS

In re Application for Reissue of	:	
4,956,302	:	
Application No. 08/561,215	:	ON PETITION
Filed: November 21, 1995	:	
Attorney Docket No. ISA-038.02	:	
For: LATERAL FLOW CHROMATOGRAPHIC BINDING ASSAY DEVICE		

This is a decision on the petition filed February 7, 2006 (certificate of mailing date February 1, 2006), under CFR 1.183, requesting waiver of 37 CFR 1.67 and 1.63, which requires all of the joint inventors to execute a supplemental declaration.

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 and 1.63 is **DISMISSED**.

While this waiver petition is not a petition under 37 CFR 1.47, it is evaluated the same way a Rule 47 petition is with respect to inventor refusal to sign/cannot be reached issues.

Petitioner has not shown that the non-signing inventor, Charles Stuart Gredell Pugh, has refused to sign the declaration or cannot be reached. It is unclear that Mr. Pugh had sufficient time to review the copy of the patent on which the reissue application was filed, the copy of the amendment to the claims, and the revised Supplemental Declaration. The Office requests that petitioner submit a copy of the cover letter sent to Mr. Pugh. In addition, the Office would like petitioner to go on record as to whether the mailing was returned.

When petitioner provides persuasive evidence that Mr. Pugh most probably received the correspondence and either refused to sign the declaration or would not respond to the request that he sign and return the declaration ***within a reasonable period for response***, petitioner will have met the refusal requirement for waiver of Rule 67 and 63.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

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APR 2 6 2006

OFFICE OF PETITIONS

In re Application for Reissue of :
4,956,302 :
Application No. 08/561,215 : ON PETITION
Filed: November 21, 1995 :
Attorney Docket No. ISA-038.02 :
For: LATERAL FLOW CHROMATOGRAPHIC
BINDING ASSAY DEVICE

This is a decision on the reconsideration petition filed April 3, 2006 (certificate of mailing date March 31, 2006), under CFR 1.183, requesting waiver of 37 CFR 1.67 and 1.63, which requires all of the joint inventors to execute a supplemental declaration.

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 and 1.63 is **GRANTED**.

Petitioner has shown that the non-signing inventor, Charles Stuart Gredell Pugh, has constructively refused to sign the declaration after having sufficient time to review the copy of the application on which the instant reissue application was filed, the copy of the amendment to the claims, and the revised Supplemental Declaration. Therefore, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declaration filed February 7, 2006 (certificate of mailing date February 1, 2006).

The aforementioned supplemental declaration has been accepted, on petition, and placed in the file.

This application is being returned to Technology Center G.A.U. 1641.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 37

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FEB 27 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KENNETH L. SHERMAN
SHERMAN & SHERMAN
2029 CENTURY PARK EAST
SEVENTEENTH FLOOR
LOS ANGELES, CA 90067

In re Application of
Humpleman
Application No. 08/561,535
Filed: November 22, 1995
Attorney Docket No. SAM1.0011

ON PETITION

This is a decision on the petition filed August 15, 2000, to invoke the supervisory authority of the commissioner under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application and to require that applicant's appeal brief filed on April 25, 2000, be held as acceptable under 37 CFR 1.192.

The petition is **granted-in-part.**

The above-identified application became abandoned as a result of petitioner's failure to file an acceptable appeal brief[1] in response to the Notice of Non-Compliance with 37 CFR 1.192(c) mailed on March 22, 2000. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed,[2] the-above-identified application became abandoned on April 23, 2000. See MPEP 1215.04.

Petitioner contends that the appellate brief filed on April 25, 2000, is in compliance with 37 CFR 1.192. The examiner has held that there is no argument as to why the claims are separately patentable. Appellant has responded with an amended brief. It is noted that appellant states in the amended brief of April 5, 2000 "(s)ince Claim 5 is no longer subject to final rejection, but is allowable, and since Claims 13 and 14 are dependent from Claim 5, Claims 5, 13 and 14 stand or fall together, and as a group, stand separately from Claims 1-4 and 7-12." A careful review of the record shows no indication of claims 5, 13 and 14 being allowable. It is further noted that claims 10-14 have been withdrawn from consideration and, therefore, not subject to appeal. It is further noted that the "STATUS OF THE CLAIMS" section of the amended brief appears to be incorrect in that claim 5 has not been indicated as allowable and claims 10-14 have been withdrawn from consideration as stated above. The amendment after final under 37 CFR 1.116 filed June 4, 1999 amending claim 5 and canceling claim 6 has been entered. Therefore, it appears that claims 1-5 and 7-9 are subject to appeal. Appellant's error in failing to provide arguments as to why claims 5, 13 and 14 do not stand with the other claims seems to stem from appellant's misunderstanding of the status of the claims. Since the official record is such that it is unclear as to the proper status and grouping of claims and appellant was not given adequate explanation as to the specifics

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[1] An appeal brief was timely filed. The brief bears a Certificate of Mailing Date of Monday, April 24, 2000. The appeal brief was determined to be non-acceptable by the examiner.

[2] The petition states that claim 5 was allowed. However, the final rejection mailed on March 29, 1999, rejected claims 1-9 and the Advisory Action mailed on June 29, 1999, stated, "For purposes of Appeal, the status of the claims is as follows ... Claims rejected: 1-9."

of the defects to the status and grouping of the claims, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. A new Notice of Defective Brief will be prepared.

SUMMARY: The petition is **GRANTED-IN-PART** to the extent indicated above.

A petition fee is not due for a petition under 37 CFR 1.181. Therefore, the petition fee will be credited to deposit account no. 19-1995.

The application file is being forwarded to the examiner for preparation of a new Notice of Defective Brief in accordance with this decision. The Notice will set a new ONE MONTH period for appellant to correct the brief.

Joseph J. Rolla, Jr., Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FEB 09 2006

OFFICE OF PETITIONS

In re Application of
Humplan
Application No. 08/561,535
Filed: November 22, 1995
Attorney Docket No. SAM1.PAU.11
For: METHOD AND APPARATUS FOR RECOVERING DATA STREAM CLOCK

: Decision on Petition for Patent Term Extension

The above-identified application has been forwarded to the undersigned for consideration on the "Petition For Review of Patent Term Examination Under 37 CFR 1.181," which was received on March 11, 2005, for the above-identified application. See 35 U.S.C. § 154(b) and 37 C.F.R. § 1.701. Further requests or a request for reconsideration of this decision for patent term extension, must be fied under 37 CFR 1.182 or 37 CFR 1.183, and include the required fee.

The petition is dismissed.

Petitioner notes that the above-identified application was filed on November 22, 1995, a Final Office Action was mailed on March 29, 1999, a Notice of Appeal was filed on August 2, 1999, [1] an Appeal Brief was filed on September 23, 1999. Petitioner notes that the application was then subject to numerous inappropriate Notices of Noncompliance, which resulted in an inappropriate Notice of Abandonment and the application was finally allowed on December 13, 2004, after Petitioner was requested to resubmit the response originally filed on June 2, 2004. The application was allowed on January 13, 2004, but the Determination of Patent Term Extension under 35 U.S.C. 154(b) included with the Notice of Allowance in the above-identified application states that the patent term extension is zero (0) days.

Petitioner argues that patent term extension in this application is inappropriate and that the patent term should be extended by 1135 days.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000.

[1] Under 37 CFR 1.8, except in certain situations, correspondence required to be filed in the Office within a set period of time will be considered as being timely filed if the procedure described in the rule is followed. 37 CFR 1.8, further, states that the actual date of receipt will be used for all other purposes.

35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000. The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

The above-identified application was filed on November 22, 1995, which is after June 8, 1995 and before May 29, 2000, and, as a result is an application that may be eligible for patent term extension under 35 U.S.C. § 154. The application was not issued due to an adverse determination of patentability by the Board of Patent Appeals and Interferences (BPAI), was not delayed due to an interference proceeding, nor was it subject to a secrecy order, as a result, this application is not eligible for the extension under 35 U.S.C. 154 and 37 CFR 1.701. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

While Petitioner argues that it is inappropriate for the patent term not to be extended under the circumstance, both 35 U.S.C. 154(b)(2) and 37 CFR 1.701(a)(3) <u>require a decision by the BPAI</u> reversing an adverse determination of patentability for the patent application to be eligible for patent term extension under 35 U.S.C. § 154. Since, the application was not issued due to an adverse determination of patentability by the BPAI, the application is not entitled to patent term extension under 35 U.S.C. 154 and 37 CFR 1.701 and the petition is dismissed.

The delay in issuance of petitioner's application is regretted.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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APR 24 2007

OFFICE OF PETITIONS

In re Application of
Humplan
Patent No. : 7,003,796
Issue date February 2, 2006
Application No. 08/561,535
Filed: November 22, 1995
Attorney Docket No. SAM1.PAU.11
For: METHOD AND APPARATUS FOR RECOVERING DATA STREAM CLOCK

: Decision Denying Petition for Patent Term Extension

The above-identified application has been forwarded to the undersigned for consideration on the petition titled "Request For Reconsideration of Decision on Petition For Patent Term Examination," which was received on April 6, 2006, for the above-identified application. See 35 U.S.C. § 154(b) and 37 C.F.R. § 1.701. The petition is being treated as a petition under 37 CFR 1.182.

The petition is **denied.**

Background

Petitioner filed a petition as a "Petition For Review of Patent Term Extension Under 37 CFR 1.181" on March 11, 2005, for an extension of the patent term. Petitioner requested a patent term extension of 1135 days due to delays in the Office during which the application was under appeal. On February 9, 2006, the petition was dismissed and the patent term extension determination was 0 days.

Petitioner notes that the above-identified application was filed on November 22, 1995, a Final Office Action was mailed on March 29, 1999, a Notice of Appeal was filed on August 2, 1999, [1] and an Appeal Brief was filed on September 23, 1999. Petitioner notes that the application was then subject to

[1] Under 37 CFR 1.8, except in certain situations, correspondence required to be filed in the Office within a set period of time will be considered as being timely filed if the procedure described in the rule is followed. 37 CFR 1.8, further, states that the actual date of receipt will be used for all other purposes.

numerous inappropriate Notices of Noncompliance, which resulted in an inappropriate Notice of Abandonment and the application was finally allowed on December 13, 2004, after Petitioner was requested to resubmit the response originally filed on June 2, 2004. The application was allowed on January 13, 2004, but the Determination of Patent Term Extension under 35 U.S.C. 154(b) included with the Notice of Allowance in the above-identified application stated that the patent term extension was zero (0) days.

Petitioner asserts that the Examiner did not have statutory jurisdiction to allow the application, as a Notice of Appeal had been filed so that the application was in the jurisdiction of the Board of Patent Appeals and Interferences (BPAI). Petitioner asserts that the Examiner did not have the authority to reopen prosecution and allow the application. Petitioner asserts that the Examiner was acting as a delegate of the BPAI and did not have authority to allow the application, as he was required by the rules to pass the application to the BPAI even if he were withdrawing the rejection. Petitioner asserts that the statute, rules and the Manual of Patent Examining Procedure require that the Examiner should have prepared an Examiner's Answer stating his "Withdrawal" of all grounds of rejection and passed the application to the BPAI. Thus, Petitioner argues that the December 13, 2004 issuance of a Notice of Allowance should be considered "a decision in the review reversing an adverse determination of patentability" under 35 U.S.C. 154(b) and Petitioner should be entitled to a patent term extension.

In the petition received on March 11, 2005, Petitioner argued that the patent term extension should be 1,135 days. Petitioner now argues that patent term extension in this application should be extended by five (5) years or 1,825 days.

Applicable Statutes and Regulation

35 U.S.C. 154. Contents and term of patent (in effect from June 8, 1995 to May 28, 2000)
***

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

(2) EXTENSION FOR APPELLATE REVIEW.-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

(3) LIMITATIONS.-The period of extension referred to in paragraph (2)-

(A) shall include any period beginning on the date on which an appeal is filed under section 134 or 141 of this title, or on which an action is commenced under section 145 of this title, and ending on the date of a final decision in favor of the applicant;

(B) shall be reduced by any time attributable to appellate review before the expiration of 3 years from the filing date of the application for patent; and

(C) shall be reduced for the period of time during which the applicant for patent did not act with due diligence, as determined by the Commissioner.

(4) LENGTH OF EXTENSION.-The total duration of all extensions of a patent under this subsection shall not exceed 5 years.

37 CFR 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

(1) interference proceedings under 35 U.S.C. 135(a); and/or

(2) the application being placed under a secrecy order under 35 U.S.C. 181; and/or

(3) appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3), and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) with respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) the number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) the number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) the number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 1.193 in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) the member of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) the number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal Court in an appeal under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and

(2) any time during the period of appellate review, as determined by the Commissioner, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Commissioner may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

37 CFR 1.191. Appeal to Board of Patent Appeals and Interferences.

(a) Every applicant for a patent or for reissue of a patent, and every owner of a patent under *ex parte* reexamination filed under § 1.510 for a patent that issued from an original application filed in the United States before November 29, 1999, any of whose claims has been twice or finally (§ 1.113) rejected, may appeal from the decision of the examiner to the Board of Patent Appeals and Interferences by filing a notice of appeal and the fee set forth in § 1.17(b) within the time period provided under §§ 1.134 and 1.136 for reply. Notwithstanding the above, for an *ex parte* reexamination proceeding filed under § 1.510 for a patent that issued from an original application filed in the United States on or after November 29, 1999, no appeal may be filed until the claims have been finally rejected (§ 1.113). Appeals to the Board of Patent Appeals and Interferences in *inter partes* reexamination proceedings filed under § 1.913 are controlled by §§ 1.959 through 1.981. Sections 1.191 through 1.198 are not applicable to appeals in *inter partes* reexamination proceedings filed under § 1.913.

(b) The signature requirement of § 1.33 does not apply to a notice of appeal filed under this section.

(c) An appeal when taken must be taken from the rejection of all claims under rejection which the applicant or patent owner proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

(d) The time periods set forth in §§ 1.191 and 1.192 are subject to the provisions of § 1.136 for patent applications and § 1.550(c) for reexamination proceedings. The time periods set forth in §§ 1.193, 1.194, 1.196 and 1.197 are subject to the provisions of § 1.136(b) for patent applications or § 1.550(c) for reexamination proceedings. See § 1.304(a) for extensions of time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action.

(e) Jurisdiction over the application or patent under reexamination passes to the Board of Patent Appeals and Interferences upon transmittal of the file, including all briefs and examiner's answers, to the Board. Prior to the entry of a decision on the appeal, the Commissioner may *sua sponte* order the application remanded to the examiner.

Opinion

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for administrative delays in applications filed on or after May 29, 2000.

The above-identified application was filed on November 22, 1995. Accordingly, the application is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b) in effect on June 8, 1995. The current provisions of 35 U.S.C. § 154(b) became effective on May 29, 2000 and do not apply because the current version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b) in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delay as set forth in the statute. The statute limits the Office's authority to grant patent term extension to only those situations stated in the statute.

In order to implement 35 U.S.C. 154(b) (in effect between June 8, 1995 and May 28, 2000), the Office promulgated 37 CFR 1.701(c)(3), which, consistent with the statute, requires a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal Court in an appeal under 35 U.S.C. 145 to be eligible for patent term extension. The application was not issued due to an adverse determination of patentability by the BPAI, was not delayed due to an interference proceeding, nor was it subject to a secrecy order, as a result, this application is not eligible for the extension under 35 U.S.C. 154 in effect on June 8, 1995 and 37 CFR 1.701. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

While Petitioner argues that it is inappropriate for the patent term not to be extended under the circumstance, both 35 U.S.C. 154(b)(2) in effect on June 8, 1995 and 37 CFR 1.701(a)(3) <u>require, where the delay is not related to a secrecy order or an interference, a decision by the BPAI</u> reversing an adverse determination of patentability for the patent application to be eligible for patent term extension under 35 U.S.C. § 154. Since, the application was not issued due to an adverse determination of patentability by the BPAI, the application is not entitled to patent term extension under 35 U.S.C. 154 and 37 CFR 1.701.

Petitioner's argument that it was inappropriate for Examiner to allow the application after the Notice of Appeal was filed because jurisdiction for the application had switched to the BPAI is not persuasive. 37 CFR 1.191(e) provides that jurisdiction for an application passes to the BPAI upon transmittal of the file, including all briefs and examiner's answers, to the Board. The Examiner had not written an examiner's answer and the application had not been forwarded to the BPAI, thus the Examiner clearly

had jurisdiction of the application and it was appropriate to pass the application to issue non-withstanding the receipt of a notice of appeal and appeal brief.

Decision

The prior decision which refused to grant a petition under 35 U.S.C. 154(b) and 37 CFR 1.701 for patent term extension for the delayed issuance of the patent for the above-identified patent application has been reconsidered. For the reasons stated herein, and in the previous decision, however, a patent term extension in this case cannot be granted under 35 U.S.C. § 154(b) in effect on June 8, 1995 and 37 CFR §§ 1.182 and 1.701. Therefore, the petition is **denied**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized, the required $400 fee for the petition has been charged to petitioner's Deposit Account.

This decision may be viewed as a final agency action. See MPEP § MPEP 1002.02(b).

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

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

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Robert A. Clarke

Robert A. Clarke
Acting Director and Deputy Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6008849	1999-12-28	08561572	1995-11-21	F 094003US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Aaron M Waxler/	Date (YYYY-MM-DD)	2008-12-16
Name	Aaron Waxler	Registration Number	48027

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6008849
Issue Date: December 28,1999
Application No. 08561572
Filed: November 21,1995
Attorney Docket No. PHF94-003

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office

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

THOMAS A. GALLAGHER
Law Offices of Thomas A. Gallagher
Suite 1111
San Francisco, CA. 94108-2805

MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Patent No. 5,844,617	:	
Issue Date: December 1, 1998	:	
Application No. 08/562,279	:	DECISION ON PETITION
Filed: November 22, 1995	:	
Inventor: Yves C. Faroudja et al	:	

This is a corrected decision on the renewed petition filed October 7, 2008, requesting reconsideration pursuant to 37 CFR § 1.183. The petition is being properly treated as a petition under 37 CFR §1.182 to invalidate an assignment previously recorded against the above-identified patent. The decision mailed October 24, 2008, granting this renewed petition, has been reevaluated and is **VACATED.**

The petition under 37 CFR § 1.182 is **dismissed.**

Any reply must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. This is not a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner has requested that the assignment record be amended to reflect that petitioner is the true owner of the above-noted patent. In particular petitioner requests expungement of purportedly erroneous assignment documents at Reel 020817, Frame 0243, so that petitioner Yves C. Faroudja, may be identified as the true and correct owner of the '617 patent. Petitioner submits that the assignment submitted on April 9, 2008 was submitted with an improper document attached and therefore request expungement of the assignment.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief; and
(B) the integrity of the assignment records will not be affected by granting the petition.

Petitioner has not proven either item A or B.

In regard to item A, there is no evidence of record that petitioner has attempted or considered any of the corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c). Also, there is no explanation of record as to why none of these procedures would provide adequate relief.

Petitioner seeks an extraordinary remedy, properly addressed under 37 CFR § 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR § 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR § 3.11. However, the recording of a document pursuant to 37 CFR § 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR § 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP § 314).

Therefore, the rules of practice and the procedures before the USPTO provide an avenue for the requested relief without relying upon extraordinary measures. As a request for the Office to invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

In regard to item B, the statements submitted in support of the petition to expunge fails to establish that expungement will not affect the assignment records in this instance. The assignment recorded in the USPTO assignment records indicates that Faroudja Laboratories, Inc.

has some rights with regard to the above mentioned patent, which suggests that the recordation may have been proper. Petitioner should note that recordation is available for numerous documents related to a patent, not just the assignment of the entire right, title and interest in the patent. See at least MPEP § 313. Moreover, the USPTO does not determine the extent of rights transferred by the assignment papers or any recorded document. Such a determination is made by a court of relevant jurisdiction. No evidence is of record establishing that the assignment was recorded improperly. Absent sufficient evidence to support the requested expungement, the integrity of the assignment records will not be disturbed by the USPTO.

In addition, the petition fee paid is not sufficient. A petition under 37 CFR § 1.182 requires the payment of $400.00. However, only $200.00 has been paid due to the erroneous assumption that the petition was properly filed under 37 CFR § 1.59. A petition under 37 CFR § 1.59 applies to application files, not assignment records. The $200.00 payment has been credited to petitioner's Deposit Account 50-4481. A petition to expunge assignment documents is properly addressed under 37 CFR § 1.182 and a fee of $400.00 is required. As authorized, the required fee of $400.00 has been charged to petitioner's Deposit Account 50-4481.

Telephone inquiries concerning this communication should be directed to the undersigned at (571)272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Michael J. Ferrazaro
P.O. Box 1687
Cupertino, CA 95015-1687

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5630864	1997-05-20	08562396	1995-11-24	S603.12-0059

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alan M. Koenck/	Date (YYYY-MM-DD)	2010-03-04
Name	Alan M. Koenck	Registration Number	43724

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5630864
Issue Date: May 20,1997
Application No. 08562396
Filed: November 24,1995
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed March 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 4,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6062339	2000-05-16	08562731	1995-11-27	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/W. Edward Ramage/	Date (YYYY-MM-DD)	2009-02-11
Name	W. Edward Ramage	Registration Number	50810

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

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UNITED STATES 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. 6062339
Issue Date: May 16,2000
Application No. 08562731
Filed: November 27,1995
Attorney Docket No. 612.16

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 11,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5794904	1998-08-18	08563441	1995-11-28	3655/1US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Stephen S. Ashley, Jr./	Date (YYYY-MM-DD)	2006-11-06
Name	Stephen S. Ashley, Jr.	Registration Number	47394

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5794904
Issue Date: August 18,1998
Application No. 08563441
Filed: November 28,1995
Attorney Docket No. 16131

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 7,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 7,2006 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5794904
Issue Date: August 18,1998
Application No. 08563441
Filed: November 28,1995
Attorney Docket No. 16131

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed November 7,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 7,2006 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5955942	1999-09-21	08563527	1995-11-28	7103

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Leo Stanger/	Date (YYYY-MM-DD)	2009-09-17
Name	Leo Stanger	Registration Number	19188

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5955942
Issue Date: September 21,1999
Application No. 08563527
Filed: November 28,1995
Attorney Docket No. 7103

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 17,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 17,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

FULBRIGHT & JAWORSKI
865 SOUTH FIGUEROA
TWENTY-NINTH FLOOR
LOS ANGELES, CA 90017-2571

COPY MAILED

OCT 2 4 2003

OFFICE OF PETITIONS

In re Patent No. 6,017,598	:	
Issue Date: January 25, 2000	:	
Application No. 08/564,134	:	NOTICE
Filed: May 28, 1996	:	
Attorney Docket No. LA-4940-113XX/	:	
09802722	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5691716	1997-11-25	08564631	1995-11-29	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Donald N. Halgren/	Date (YYYY-MM-DD)	2007-07-12
Name	Donald N. Halgren	Registration Number	27056

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5691716
Issue Date: November 25,1997
Application No. 08564631
Filed: November 29,1995
Attorney Docket No. KB-CIP-1

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed July 12,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 12,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5603524	1997-02-18	08566288	1995-12-01	H-189607 IPL0148US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ChristopherCBoehm/	Date (YYYY-MM-DD)	2010-04-07
Name	Christopher C. Boehm	Registration Number	41624

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5603524
Issue Date: February 18,1997
Application No. 08566288
Filed: December 1,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 7,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

NOTICE R.. CERTIFICATES OF CORRECTIO

DATE : **July 8, 2003** **Paper No.: 25**

TO SPE : **2600**

SUBJECT : Certificate of Correction Request in Patent No.: 5,754,250

A response to the following question is requested with respect to the accompanying request for a certificate ction.

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

Cecelia Newman
Supervisory,
Legal Instrument Examiner

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☑ **YES** ☐ **NO**

☐ **Comments:**

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Supervisor

2611

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 5,754,250
DATED : May 19, 1998
INVENTOR(S) : J. Carl Cooper

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

Title page,
Item [63], **Related U.S. Application Data**, at the end of the sentence, add -- , which is a continuation of application Serial No. 07/837,323, filed February 18, 1992, now abandoned --.

Column 1,
Line 8, at the end of the paragraph, add -- , which is a continuation of application Serial No. 07/837,323, filed February 18, 1992, now abandoned --.

Signed and Sealed this

Twenty-third Day of September, 2003

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 5,754,250

DATED : May 19, 1998

INVENTOR(S) : J. Carl Cooper

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

Title Page Item 63
~~Cover page~~, under heading "Related U.S. Application Data": At the end of the sentence, add -- , which is a continuation of application Serial No. 07/837,323, filed February 18, 1992, now abandoned --.

Column 1, line 8: At the end of the paragraph, add -- , which is a continuation of application Serial No. 07/837,323, filed February 18, 1992, now abandoned --.

MAILING ADDRESS OF SENDER:

KATTEN MUCHIN ZAVIS ROSENMAN
1025 Thomas Jefferson Street, N.W.
East Lobby, Suite 700
Washington, D.C. 20007-5201
(202) 298-7570 - Facsimile

PATENT NO. 5,754,250

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231.

DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

Nixon & Vanderhye
1100 North Glebe Road, 8th Fl.
Arlington, VA 22201-4714

COPY MAILED

MAR 15 2002

OFFICE OF PETITIONS

In re Application of
Yoshiro Ikada et al.
Application No. 08/567,355
Filed: November 30, 1995
Attorney Docket No. 330-178

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 8, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 9, 2001.

The file is being forwarded to Technology Center AU 1647, for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-22-05

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction on Patent No.: 6,831058

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch

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

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

Comments:

The errors were caused by the printers, no applicant. Changes should be made.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOHN KOLLAR
8 ENDFIELD ST.
WINSLOW NV 08081

COPY MAILED
MAR 21 2006
OFFICE OF PETITIONS

In re Application of
Kollar
Application No. 08/567,564
Filing Date: December 5, 1995
For: PREPARATION OF DIALKYL PEROXIDES

: Decision on Petition for
: Patent Term Extension

The above-identified application has been forwarded to the undersigned for consideration on the "Request for Reconsideration of Patent Term Adjustment," which was received on May 16, 2005, requesting a patent term extension of 5 years, which is being treated as a petition under 37 CFR 1.181. See 35 U.S.C. § 154(b)[1] and 37 C.F.R. § 1.701.

The petition under 37 CFR 1.181 is granted.

Petitioner notes that the Notice of Allowance dated March 3, 2005, in the above-identified application indicated a 609-day patent term extension. The above-identified application was filed on December 5, 1995 and a Notice of Appeal was filed on May 8, 1998. On June 20, 2002, the application was remanded to the examiner by a panel of the Board of Patent Appeals and Interferences after a remand from the Court of Appeals from the Federal Circuit. On July 31, 2002, interference was declared and a final decision was mailed on July 30, 2004. Petitioner argues that because the pendency will be greater than 9 and half years, there should be five (5) years of patent term extension under 35 U.S.C. 154 and 37 CFR 1.701.

35 U.S.C. § 154(b) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for those delays and others in applications filed on or after May 29, 2000.

A Notice of Appeal was filed in the above-identified application on May 8, 1998. On June 20, 2002, a panel of the Board of Patent Appeals and Interferences (BPAI) remanded the application to the

[1] 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a remand by a panel of the BPAI to the Examiner, the patent to issue from the application is entitled to an extension of the patent term. [2] The period of delay in the above-identified application is the period beginning on May 8, 1998, the date that the Notice of Appeal was filed and ending on June 20, 2002, the date of the remand by a panel of the BPAI, which is a final decision in favor of the applicant. Three years after the earliest effective filing date of the application is December 5, 1998. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is 1,294 days, the period from December 5, 1996 to June 20, 2002 including the beginning and end dates.

A declaration of interference was made in the above-identified application on July 31, 2002. 37 CFR 1.701(c)(1)(i) states that the period of delay runs from the declaration of interference to the date that the interference was terminated. On March 30, 2004, the Board of Appeals and Interferences terminated the interference proceedings with an adverse decision favorable to applicants. Therefore, applicants are entitled to a patent term extension for the period of the delay from the declaration of interference, July 31, 2002, to the decision favorable to applicants, March 30, 2004. This period of delay is correctly indicated as 609 days on the Notice of Allowance and Issue Fee Due, mailed on March 3, 2005.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **five years**.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

---

[2] Revision of Patent Term Extension and Patent Term Adjustment Provisions, 78 FR 21704, 21705 (April 22, 2004), 1282 Off. Gaz. Pat. Office Notices 100 (May 18, 2004) (final rule).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5716314	1998-02-10	08567945	1995-12-06	820326-1190

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/jerry k. mccollum/	Date (YYYY-MM-DD)	2007-09-05
Name	Jerry K. McCollum		
Enter Reel and Frame Number		Remove	
Reel Number	007826	Frame Number	0649
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5716314
Issue Date: February 10,1998
Application No. 08567945
Filed: December 6,1995
Attorney Docket No. 03991-0130

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 5,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 5,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,002,787	1999-12-14	08/568,404	1995-12-06	2051256-5002US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Caitlin Lhommedieu/	Date (YYYY-MM-DD)	2008-02-11
Name	Caitlin Lhommedieu	Registration Number	58903

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6002787
Issue Date: December 14,1999
Application No. 08568404
Filed: December 6,1995
Attorney Docket No. 10004.8USF1

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

#23
5/24/03

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAY 29 2003

TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 23

Mr. Ronald O. Neerings
Texas Instruments Incorporated
P O Box 655474, M/S 3999
Dallas TX 75265

In re Application of: Smith et al.	)	
Application No. 08/568,777	)	
Attorney Docket No. TI-22187	)	DECISION ON PETITION TO
Filed: December 7, 1995	)	WITHDRAWAL HOLDING OF
For: PORTABLE COMPUTER HAVING	)	ABANDONMENT UNDER 37 CFR §
AN INTERFACE FOR DIRECT	)	1.181(a)
CONNECTION TO A MOBILE	)	
TELEPHONE	)	
	)	

This is a decision on the "Request to Withdraw Notice of Abandoned" (filed March 4, 2003), filed in response to a Notice of Abandonment (Paper No. 19, mail date January 10, 2003). The communication is treated as a petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment. (See MPEP § 711.03(c)).

BACKGROUND

March 8, 2002	Board of Patent Appeals and Interferences decision (Paper No. 17)
May 20, 2002	Form 90 mailed setting one-month non-extendable period to reply (Paper No. 18)
June 20, 2002	One-month period for reply lapses
July 26, 2002	Mr. Neerings' Declaration states Notice of Abandonment was received
Jan 10, 2003	Notice of Abandonment mailed (Paper No. 19)
March 4, 2003	Petition to withdraw holding of abandonment filed along with amendment to Claims 15-28, cancellation of Claim 29 and concurrence with examiner on cancellation of Claims 1-14.

ISSUES

Petitioners have submitted a petition, declarations by Mr. Ronald O. Neerings and Allen B. Kroger along with a copy of the TI legal database docket file computer screens. Applicants state they did not receive Paper No. 19 until a copy was faxed to applicants' representative on February 3, 2003. While Mr. Neerings' remarks state he received the copy of the Office letter

dated May 20, ***2003***, the Office understands this to be a typographical error since the paper at issue was mailed May 20, 2002. Mr. Neerings declaration includes a statement in section 5 that "Applicants received the Notice of Abandonment dated 07/17/02 on 07/26/02."

DECISION

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office presumes the communication was properly mailed to the address of record. According to the MPEP § 711.03(c), the showing required to establish nonreceipt of an Office action includes the following:

a) a statement from the practitioner that the Office action was not received,
b) a statement from the practitioner that the file jacket and docket records were searched,
c) a copy of the docket record at the address of record, and
d) a reference to the docket record in the practitioner's statement.

Mr. Neerings, as the practitioner, has provided a declaration that is construed as indicating the practitioner has knowledge that the file jacket and docket records were searched; that the docket records provided are for the address of record. Mr. Neerings declaration references the docket record in his statement.

However, the declaration and docket evidence have created some confusion. Paragraph 5 of Mr. Neerings declaration suggests some Office mailing dated ***July 17, 2002*** was received on ***July 26, 2002***. In addition, the two computer screens appear to be incomplete. No paper is listed with a July 2002 date; the apparent entry for the BPAI decision mailed 3/8/2002 is listed as "Request for" and shows a "Response Due Date" of April 8, 2002 but omits that it was a Board decision; and the abandonment appears to be listed as ***March*** 10, 2003 when in fact the abandonment had a mailing date of ***January*** 10, 2003. These apparent errors in the record keeping, along with the errors found in the remarks noted above require further clarification and supplemental statement by the practitioner in order to confirm what was, and was not, received by the practitioner.

Accordingly, the petition is **DISMISSED**.

If the petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at 703-308-0269.

Josie A Ballato

Josie A Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

#25

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 28 2004

TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 25

Ronald O. Neerings
Texas Instruments Inc.
P.O. Box 655474, M/S 3999
Dallas, TX 75265

In re Application of: Smith et al. Application No. 08/568,777 Attorney Docket No. TI-22187 Filed: December 7, 1995 For: PORTABLE COMPUTER HAVING AN INTERFACE FOR DIRECT CONNECTION TO A MOBILE PHONE	**DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181**

This is a decision on the renewed petition, filed June 11, 2003 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. The original petition was dismissed May 29, 2003. This application was held abandoned for failure to respond to the Office communication mailed May 20, 2002 (Paper No. 18). A Notice of Abandonment was mailed on January 10, 2003 (Paper No. 19). A duplicate copy of the renewed petition was transmitted to the Office on December 17, 2003, but since that time, the original paper from June 11, 2003 has been matched to the application. Applicant is advised to check the captions for future filings with the Office. The renewed petition and its duplicate had the wrong serial number and incorrect art unit. The current art unit is 2112. The Office apologizes for the delay in responding to applicant's renewed petition.

In support of the petition, applicants' representative supplements earlier statements and clarifies matters that were unclear due to typographical errors. The renewed request is accompanied by a corrected declaration of Mr. Neerings.

The evidence submitted has overcome the presumption of receipt in accordance with the guidelines set forth in MPEP § 711.03(c).

The petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center support staff and thereafter to the examiner of record. A new Office communication will be forthcoming. Telephone inquiries should be directed to the undersigned at (703) 308-0269.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Technology Center 2100

TEXAS INSTRUMENTS INCORPORATED
P.O. Box 655474, M/S 3999
Dallas, TX 75265

In re Application of: Smith, et al. Application No.: 08/568,777 Filed: December 7, 1995 Attorney Docket No.: TI-22187 For: PORTABLE COMPUTER HAVING AN INTERFACE FOR DIRECT CONNECTION TO A MOBILE TELEPHONE	)))))))	**DECISION ON PETITION *UNDER 37 CFR §1.181***

This is a decision on the petition filed May 31, 2005, duplicate filed September 19, 2005, under 37 CFR §1.181(a), for withdrawal of the final rejection of April 29, 2005 as premature. The delay in response to the petition(s) is regretted.

A review of the file record indicates that prosecution was reopened (final rejection of April 29, 2005 was withdrawn) by the Examiner in the (new) final Office action mailed on September 29, 2005. In addition, a request for continued examination (RCE) was filed on March 24, 2006 and a non-final Office action was mailed on May 25, 2006.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181(a) to invoke supervisory authority to withdraw the final rejection mailed on April 29, 2004, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The period for response ***continues to run*** from the mailing date of the non-final Office action of May 25, 2006. In accordance with 37 CFR § 1.136(a), an extension of time (up to three months) is available to extend the period for response until November 27, 2006 (November 25th/26th – Saturday/Sunday resp.). Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6058380	2000-05-02	08569746	1995-12-08	95-156-US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Frederick H. Colen/	Date (YYYY-MM-DD)	2009-10-02
Name	Frederick H. Colen	Registration Number	28061

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6058380
Issue Date: May 2,2000
Application No. 08569746
Filed: December 8,1995
Attorney Docket No. 95-156

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 THIRD AVENUE, SUITE 2200
SEATTLE ,WA 98101-3045

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of	:	
LEUCA, et al.	:	
Application No. 08/571,050	:	DECISION GRANTING PETITION
Filed: December 12, 1995	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **83531-29**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 9, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

MaGraves

Monica A. Graves
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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OIPE 08 C1

Paper No. 33

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SUITE 3300
MINNEAPOLIS, MN 55402

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SEP 26 2001

OFFICE OF PETITIONS

In re Application of :
DeBonte, Fan, and Loh :
Application No. 08/572,027 : DECISION REFUSING STATUS
Filed: 14 December, 1995 :
Attorney's Docket No. A21-535.1007 :

This is a decision on the petition filed on 15 May, 2001, under 37 CFR 1.183, which is being treated as (1) a petition under 37 CFR 1.48(a) to amend the inventive entity by the addition of Guo-Hua Miao (Miao) and the deletion of Willie H.-T. Loh (Loh), (2) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(1) which requires a statement from the person being added (Miao), (3) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which require that a named inventor execute a supplemental declaration, and (4) as authorized by 37 CFR 1.48(a)(2) a petition under 37 CFR 1.47(a), to accept the declaration filed on 15 May, 2001, which lacks the signature of Miao.

The petition is <u>dismissed</u>.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. FAILURE TO TIMELY RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION. The reconsideration request should include a cover letter entitled "Renewed Petitions Under 37 CFR 1.48, 1.183, and 1.47."

The above-identified application was filed on 14 December, 1995, without an oath or declaration. On 25 March, 1996, a declaration was filed naming Lorin H. DeBonte, Zhegong Fan, and Willie H.-T. Loh as joint inventors.

On 15 May, 2001, the present petition was filed, whereby petitioners request that Miao be added and Loh be deleted as a named inventor. Petitioners also request waiver of the rules in that Miao refuses to sign the declaration and the statement of lack of deceptive intent as required by 37 CFR 1.48. Furthermore, petitioners request waiver of the rules in that an inventor who signed the original declaration, Fan, refuses to sign the supplemental declaration naming Miao as a joint inventor.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.48(a).

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by: (1) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43, or 1.47; (3) the fee set forth in 37 CFR 1.17(I); and (4) the written consent of any assignee, if any of the originally named inventors has executed an assignment.

The present petition lacks items (1), (2), and (4) with respect to Miao. The petition also lacks item (4) with respect to Loh.

In response to item (1), the petition lacks a statement of lack of deceptive intention on the part of Miao, the inventor being added. In response to item (2), the supplemental declaration lacks the signature of Miao. It is noted that although petitioners state that Fan refuses to sign the supplemental declaration, a copy of the declaration naming DeBonte, Miao, and Fan as joint inventors was filed on 15 May, 2001, apparently with Fan's signature. Accordingly, it appears that Fan has in fact signed the supplemental declaration. Petitioner's <u>must</u> notify the Office if this is an incorrect interpretation.

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.[1]

---

[1] MPEP 201.03(B).

Petitioners must show that the inability to obtain the statement from Miao is, notwithstanding the exercise of reasonable care and diligence, due to circumstances beyond their control. Under the circumstances of this case, petitioners should proceed as noted in more detail *infra* to make their showing in support of their request for waiver.

In regards to item (4), petitioners have not provided proof of authority of the person signing the statement of consent to sign on behalf of the assignee. The statement must be either signed by an officer of the corporation (president, vice president, secretary, or treasurer), or petitioners must present proof of the authority of the person signing on behalf of the corporation in accordance with 37 CFR 3.73(b).

Petition Under 37 CFR 1.47(a).

Likewise, the entire showing of record, considered also under 37 CFR 1.47, does not currently warrant acceptance of the declarations under 37 CFR 1.63 and 37 CFR 1.48(a)(2), filed on 12 March, 2001, so as to amend the inventive entity of record under 37 CFR 1.48(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, and the declaration); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The present petition lacks items (1).

In respect to item (1), the showing of record is insufficient to establish that Miao refused to sign the declaration after being presented with a copy of the application. Although a letter was submitted with the petition showing that a copy of the application and statement of lack of deceptive intent were mailed to Miao at E.I. DuPont de Nemours & Company (DuPont), the letter does not constitute a *bona fide* attempt to present the application papers to Miao because the letter was not set to the last known address of the non-signing inventor.[2] It is further noted that no street address was listed on the letter, however,

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[2] See MPEP 409.03(d).

and there is no evidence that Miao ever received the letter.

Petitioners should send or give a copy of the application papers (specification, including claims, drawings, if any, and the declaration) and the statement of lack of deceptive intent to the inventor at his last known address. Petitioners may submit proof in the form of a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Additionally, proof that the inventor refuses to sign the Declaration and the statement of lack of deceptive intention after being presented with the application must be provided.[3] If there is a written refusal, petitioners must provide a copy of the written refusal. If the refusal is made orally to a person, then the person must provide details of the refusal in an affidavit or declaration of facts.

Petition Under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.64.

It is noted that although petitioners state that Fan refuses to sign the supplemental declaration, a copy of the declaration naming DeBonte, Miao, and Fan as joint inventors filed on 15 May, 2001, appears to bear Fan's signature. Accordingly, it appears that Fan has in fact signed the supplemental declaration. Petitioners <u>must</u> notify the Office if this is an incorrect interpretation.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

---

[3] MPEP 409.03(d).

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OIPE 04-02

Paper No. 36

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MINNEAPOLIS MN 55402

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MAY 20 2002

OFFICE OF PETITIONS

In re Application of	:	
DeBonte et al.	:	
Application No. 08/572,027	:	DECISION ON PETITION
Filed: 14 December, 1995	:	
Attorney's Docket No. A21-535.1007	:	

This is a decision on the renewed petition filed by facsimile on 18 March, 2002 (certificate of mailing date 21 December, 2001), under 37 CFR 1.47(a), 1.48, and 1.183.

The petition is again **dismissed**.

Petitioners are given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a), 1.48 and 1.183," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

Although the person sought to be added as an inventor, Hua Miao, has now signed the statement of lack of deceptive intent, the declaration submitted with the present petition is defective in that non-initialed and/or non-dated alterations with regard to joint inventors Miao and Debonte.[1] A new declaration in compliance with 37 CFR 1.63 and 1.67 is required.

---

[1] MPEP 602.01; See 37 CFR 1.[illegible].

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 40

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AUG 23 2002

OFFICE OF PETITIONS

In re Application of	:	
DeBonte et al.	:	
Application No. 08/572,027	:	ON PETITION
Filed: 14 December, 1995	:	
Attorney Docket No. A21-535.1007	:	

This is a decision on the paper styled as a request for reconsideration of petition under 37 CFR 1.47(a), 1.48, and 1.183 filed on 13 August, 2002, which is treated as a renewed petition under 37 CFR 1.47(a) and 1.48(a).

The petition under 37 CFR 1.48(a) is granted.

The petition under 37 CFR 1.47(a) is dismissed as moot.

The present application was filed on 14 December, 1995, without an executed oath or declaration. On 25 March, 1996, a declaration naming Lorin DeBonte, Zhegong Fan, and Willie H.T. Loh was filed.

The petition filed on 15 May, 2001, under 37 CFR 1.48(a) to amend the inventive entity by the addition of Gua-Hua Miao and the deletion of Loh as joint inventors and to waive under 37 CFR 1.183 the requirements of 1.48(c) and 1.47(a) in that Miao refused to sign the declaration in compliance with 37 CFR 1.47(a) and statement of lack of deceptive intent in compliance with 37 CFR 1.48(c) was dismissed on 26 September, 2001. The renewed petition filed on 18 March, 2002 (certificate of mailing date 21 December, 2001) was dismissed on 20 May, 2002.

As a result of papers filed on 19 November, 2001, and 3 June, 2002, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Guo-Hua Miao, Johnston, Iowa, and the deletion of Willie H.-T. Loh, Minneapolis, Minnesota.

As Miao signed a declaration submitted in compliance with 37 CFR 1.63 filed on 13 August, 2002, no petition under 37 CFR 1.47 is required. The petition under 37 CFR 1.47(a) is therefore dismissed as moot.

It is noted that the declarations signed by DeBonte and Miao state that the application was amended on 27 March, 1996; 12 September, 1997; 21 April, 1998; 25 September, 1998; 3 November, 1998, and 9 May, 2001, while the declaration signed by joint inventor Zhegong Fan states that the application was amended only on 27 March, 1996; 12 September, 1997; 21 April, 1998; 25 September, 1998, and 3 November, 1998. Additionally, the declarations signed by DeBonte and Miao reflect a different residence and mailing address for Fan than the declaration which Fan has signed. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67, listing all of the amendments and signed by joint inventor Fan must be submitted when required by the examiner.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected. Thereafter, the application will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at 703.308.6918.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6141034	2000-10-31	08572785	1995-12-15	1392-010/MMM

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark M. Meininger/	Date (YYYY-MM-DD)	2008-12-19
Name	Mark M. Meininger	Registration Number	32428

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6141034
Issue Date: October 31,2000
Application No. 08572785
Filed: December 15,1995
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 19,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 19,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

COPY MAILED

FEB 23 2004

OFFICE OF PETITIONS

In re Application of
Hideo Takiguchi, et al.
Application No. 08/573,519
Filed: December 15, 1995
Attorney Docket No. 862.1336

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 18, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 10, 2001, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center AU 2671 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Date : February 23, 2004

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hideo Takiguchi, et al.
Application No. : 08/573,519
Filed : December 15, 1995

The above-identified application has been assigned Patent No. 6,704,011 and an issue date of March 9, 2004.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 9, 2004:

> "All reference to Patent No. 6, 704,011 to HIDEO TAKIGUCHI, ET AL. of JAPAN for INTUITIVE HIERARCHICAL DATA DISPLAY METHOD AND SYSTEM appearing in the Official Gazette of March 9, 2004, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite ll00 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080818

DATE : August 18, 2008

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.: 7336279

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/XIAO M WU/
Supervisory Patent Examiner.Art Unit 2628

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 34

ANTIONETTE F. KONSKI
BAKER & MCKENZIE
660 HANSEN WAY
PALO ALTO, CA 94304-1018

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MAY 2 1 2002

OFFICE OF PETITIONS

In re Application of :
Hunein F. Maassab et al :
Application No. 08/573,569 : ON PETITION
Filed: December 14, 1995 :
Attorney Docket No. 128019200201 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 29, 2000, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 1, 2001.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1600 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAY 27 2005

BINGHAM, MCCUTCHEN LLP
THREE EMBARCADERO CENTER
18 FLOOR
SAN FRANCISCO CA 94111-4067

In re Application of:
Maasab et al.
Serial No.: 08/573,569
Filed: December 14, 1995
Attorney Docket No.: none

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on October 13, 2004, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed January 14, 2004. The delay in responding to this petition is regretted, however, this petition was only recently brought to the attention of the deciding authority.

A review of the file history shows that the examiner mailed an Office action to applicants on January 14, 2004, setting a three-month statutory time period for reply. On September 21, 2004, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a response to the Office action was timely filed on July 14, 2004, as shown by the Certificate of Mailing executed under 37 CFR §1.8 on July 14, 2004 on the transmittal Form. Applicants also submit a copy of the post card identifying the papers filed on July 14, 2004 and showing a USPTO date-stamped receipt of July 19, 2004. In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. This application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for consideration of the amendment.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine Chambers
Director, Technology Center 1600

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5594289	1997-01-14	08574582	1995-12-14	352901USMF

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin J. Spivak/	Date (YYYY-MM-DD)	2009-12-22
Name	Marvin J. Spivak	Registration Number	24913

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5594289
Issue Date: January 14,1997
Application No. 08574582
Filed: December 14,1995
Attorney Docket No. AGA-US-5-CON

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 22,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 22,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 41

QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

COPY MAILED

JUN 0 9 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of
William R. Gardner et al
Application No. 08/575,304
Attorney Docket No. QCPA800DIV

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 31, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950 extension of time submitted with the petition on May 11, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on May 11, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 2686 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 20

VENABLE LLP
P O BOX 34385
WASHINGTON, DC 20043-9998

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AUG 0 2 2006
OFFICE OF PETITIONS

In re Patent No. 5,792,640	:	
Issue Date: August 11, 1998	:	
Application No. 08/575,361	:	NOTICE
Filed: December 24, 1995	:	
Attorney Docket No. 02240-229310	:	

This is a notice regarding your request filed April 19, 2006 for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate unless notified by a proper party in interest.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

ATT IP/TT
MCI COMMUNICATIONS CORPORATION
OFFICE OF THE GENERAL COUNSEL
1133 19TH STREET NW
WASHINGTON, DC 20036

MAIL

JUN 26 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:	:
Huang	:
Application No.: 08/575,433	: DECISION ON PETITION
Filed: 20 December, 1995	: TO WITHDRAW HOLDING
For: HYBRID PACKET-SWITCHED AND CIRCUIT-SWITCHED TELEPHONY	: OF ABANDONMENT

This is a response to the request for withdrawal of the notice of abandonment filed on April 28, 2000, and is being treated under 37 C.F.R. §1.181 as a petition to withdraw the holding of abandonment.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED.**

The application became abandoned after the applicant failed to timely and properly reply to the March 20, 1998, final Office action.

Petitioner replied to the final Office action with an Amendment filed on June 22, 1998, an Advisory Action mailed on 13 July, 1998, notified Petitioner that the proposed amendments would "not be entered because they raise new issues that would require further consideration and research." Therefore, this amendment was not a proper reply to the final Office action.

Petitioner has submitted evidenced by way of an Express Mail Label No. EM549006682US showing a "Date-in" of August 21, 1998 and a date stamped receipt card of the same date showing that Petitioner replied to the final Office action with a Continued Prosecution Application (CPA) pursuant to 37 C.F.R. §1.53(d) filed via Express Mail on 21 August, 1998, and the record contained a general authorization for fees and in particular for extension of time fees--for which Petitioner herein required a three- (3-) month extension to make timely the reply in the form of the CPA.

For the reasons stated above the petition is **granted**. The Notice of Abandonment is vacated, and the holding of abandonment withdrawn.

It appears that Petitioner has made some change to the mailing address, however, no formal Notice of Change of Address has been filed of record. Petitioner must so file if a change of address is to be formalized. It also does not appear that Petitioner has been authorized to act on behalf of the Applicant, and a formal Power of Attorney/Revocation or Associate Power of Attorney should be filed to provide such authorization.

The application is being forwarded to the Technology Center's technical support staff for processing of the CPA, charging of the appropriate fees (including the three- (3-) month extension of time) to Deposit Account 13-2491. The file will then be forwarded to the Examiner for further examination in due course.

Jin F. Ng, Director
Technology Center 2600
Communications

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,768,045	1998-06-16	08/575,659	1995-12-20	A0252

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brian E. Jones/	Date (YYYY-MM-DD)	2010-06-28
Name	Brian E. Jones, Esq.	Registration Number	51855

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5768045
Issue Date: June 16,1998
Application No. 08575659
Filed: December 20,1995
Attorney Docket No. K35A0252

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 28,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 28,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5767911	1998-06-16	08575870	1995-12-20	M21Q372618/JLR

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2006-12-11
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

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UNITED STATES 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. 5767911
Issue Date: June 16,1998
Application No. 08575870
Filed: December 20,1995
Attorney Docket No. 177-523201-M

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 11,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 11,2006. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,786,741	1998-07-28	08/576,801	1995-12-21	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Roy Kim/	Date (YYYY-MM-DD)	2007-02-06
Name	Roy Kim	Registration Number	51883

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5786741
Issue Date: July 28,1998
Application No. 08576801
Filed: December 21,1995
Attorney Docket No. 95-21

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 7,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 7,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 29

Jacobson Holman
The Jenifer Building
400 Seventh Street, NW
Washington, DC 20004-2201

COPY MAILED
SEP 1 0 2003
OFFICE OF PETITIONS

In re Application of :
Joo Y. Kim :
Application No. 08/576,902 : ON PETITION
Filed: December 22, 1995 :
Attorney Docket No. P66476US0 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 27, 1998, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 28, 1999.

This application is being forwarded to Technology Center AU 2816.

Telephone inquiries regarding this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAY - 4 2004

STEPHEN B. MAEBIUS
FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Hans J. Hansen	:
Serial No.: 08/577,106	: WITHDRAWAL OF ATTORNEY
Filed: December 22, 1995	:
Attorney Docket No.: 018733-0643	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,736,808	1998-04-07	08/577,279	1995-12-22	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Roy Kim/	Date (YYYY-MM-DD)	2007-02-06
Name	Roy Kim	Registration Number	51883

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5736808
Issue Date: April 7,1998
Application No. 08577279
Filed: December 22,1995
Attorney Docket No. 95-20

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 7,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 7,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5630479	1997-05-20	08577899	1995-12-22	DENN.15

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tim Cook/	Date (YYYY-MM-DD)	2009-09-08
Name	Tim Cook	Registration Number	32561

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5630479
Issue Date: May 20,1997
Application No. 08577899
Filed: December 22,1995
Attorney Docket No. 12426

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 8,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5626577	1997-05-06	08578205	1995-12-29	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/george a harris/	Date (YYYY-MM-DD)	2009-05-11
Name	george a harris		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5626577
Issue Date: May 6,1997
Application No. 08578205
Filed: December 29,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 11,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 12

RONALD M. GIULIANO
38 DALLAS AVENUE
NEW HYDE PARK, NY 11040

COPY MAILED

AUG 0 8 2002

OFFICE OF PETITIONS

In re Patent No. 5,743,616 :
Issue Date: April 28, 1998 :
Serial No. 08/578,453 : ON PETITION
Filed: December 26, 1995 :
Inventor(s): Ronald Giuliano et al :

REQUIREMENT FOR INFORMATION

A petition was filed on July 18, 2002 under 37 CFR 1.378 to accept the delayed payment of a maintenance fee for the above-identified patent.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to address following issues a decision is rendered. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).

[X] The instant petition is not signed by a person authorized to sign a petition under 37 CFR 1.378 in the above-identified patent. 37 CFR 1.378(d) requires that any petition under 37 CFR 1.378 be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

[] The instant petition appears to be on behalf of the assignee; however, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents

submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed with this requirement for information.

The response to this Requirement for Information should include a cover letter entitled "Response to Requirement for Information."

At the end of the two month period specified above, a decision will be rendered on the instant petition under 37 CFR 1.378 as supplemented by any information submitted in response to this Requirement for Information.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 17

THOMAS M. GALGANO
GALGANO & BURKE
300 RABRO DRIVE
SUITE 135
HAUPPAUGE, NY 11788

COPY MAILED

OCT 0 8 2002

OFFICE OF PETITIONS

In re Patent No. 5,743,616 :
Issue Date: April 28, 1998 :
Application No. 08/578,453 : ON PETITION
Filed: December 26, 1995 :
Patentee(s) Ronald Giuliano et al :

This is a decision on the petition under 37 CFR 1.378(c), filed October 1, 2002, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The patent file is being forwarded to Files Repository.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,796,130	1998-08-18	08/578,745	1995-12-26	LLC-2273/1D/1C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher P. Maiorana/	Date (YYYY-MM-DD)	2007-03-30
Name	Christopher P. Maiorana	Registration Number	42829

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5796130
Issue Date: August 18,1998
Application No. 08578745
Filed: December 26,1995
Attorney Docket No. LLC-2273/1D/1C

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 30,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES
PATENT AND
TRADEMARK OFFICE

#31
gdc
6/8/01

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Fourth Floor
1755 Jefferson Davis Highway
Arlington, Virginia 22202

JUN 8 2001

In re Application of Takanobu Kamakura :
Application No. 08/578,980 : DECISION ON PETITION
Filed: December 27, 1995 :
Attorney docket No. 0039-5461-2 :

This is a decision on the petition filed March 12, 2001, requesting relief from the filing of a corrected copy of claims and further requesting compliance with MPEP §§1003(10).

The Petition is **moot** with respect to the correction of the appealed claims. The Petition is **denied** with respect to the issue of compliance with the aforementioned requirement of the MPEP.

An Office action was issued on February 12, 2001, Paper No. 28, stating that "claims 1 and 6-10 fail to show the latest version of the claims." Upon comparison of the appealed claims as reproduced in the appendix to the Brief filed January 25, 1999, with the claims in the application file, it is determined that only claim 8 is in error. Claim 8 appended to the Brief is missing the word "defect" in line 3 (see the amendment to claim 8 filed on June 9, 1998, Paper No. 15). In the interest of expediency, the correct version of claim 8 will be reproduced in a supplemental examiner's answer.

Petitioner also contends that the Examiner's Answer sets forth a new interpretation and or application of 35 U.S.C. §102. This is not convincing because said Answer is limited to the rejections and applied prior art of the final rejection, Paper No. 16. With respect to the Reply Brief, no further substantive response by the examiner is necessary as stated in MPEP §1208.04:

> *Normally, when a reply brief has been filed by the appellant in response to a new point of argument in the examiner's answer, the case should be forwarded to the Board without any need for the preparation of a supplemental answer by the examiner.*

For clarification, it is noted that the Reply Brief was "remanded" to the examiner because this paper was delivered by the mailroom directly to the Board of Appeals and Interference where the application file was located. The "remand" referenced by Petitioner was the first opportunity the examiner had to study the Reply Brief.

Subsequent to the mailing of this decision, the application file will be forwarded to the examiner for prompt issuance of a supplemental examiner's answer reproducing claim 8 as it appears in amendment filed June 9, 1998.

Rolf G. Hille

Rolf G. Hille
Director
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 40

Gregory J. Maier
OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

MAR 10 2003

In re Application of	)	
KAMAKURA, TAKANOBU	)	DECISION ON PETITION
Application No. 08/578,980	)	TO WITHDRAW HOLDING
Filed: December 27, 1995	)	OF ABANDONMENT
Docket No.: 39-5461-0	)	

This is a decision on the petition filed July 17, 2002, to withdraw the holding of abandonment of the above-identified application. A petition fee is not required.

The petition is **granted.**

A decision affirming the examiner's rejection was rendered by the Board of Patent Appeals and Interferences (BPAI) and mailed on February 19, 2002. In the apparent absence of a response to the Decision, the application was held abandoned and a Notice of Abandonment was mailed on May 20, 2002.

Petitioner asserts that a Request for Reconsideration under 37 C.F.R.1.197(b) (Request) was filed in the above-identified application on April 19, 2002. To support this assertion, petitioner has provided a copy of the Request and a copy of a return postcard that properly identifies and acknowledges receipt of the Request by the United States Patent and Trademark Office (PTO) on April 19, 2002.

A review of the application file record reveals that the above-identified response was not associated with the application file at the time the Notice of Abandonment was mailed but has since been matched therewith. The response of record was received on April 19, 2002.

For the above-stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the Request received on April 19, 2002. From there, the application will be forwarded to the BPAI for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Paper No. 47

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

APR 05 2005

In re Application of:
Takanobu Kamakura
Serial No.: 08/578,980
Filed: December 27, 1995
Attorney Docket No.: 39-5461-0

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment filed on October 6, 2003. There is no fee for this petition.

The petition is **GRANTED**.

A decision by the Board of Appeals and Interferences (Board) affirming the examiner's rejection was mailed on February 19, 2002. Applicant filed a request for reconsideration under 37 C.F.R. § 1.197(b) on April 10, 2002. The Board denied this request in a letter mailed on June 27, 2003. Although the Notice of Abandonment is not in the application file, other records indicate that the application was held abandoned and a Notice of Abandonment was mailed on August 6, 2003.

The mailing of a Notice of Abandonment on August 6, 2003 was at the very least premature. As noted in the petition, 37 C.F.R. § 1.304 provides two months from the action on a request for consideration under 37 C.F.R. § 1.197(b) to file an appeal. Thus, applicant had to August 27, 2003 to file an appeal from the decision of the Board.

Petitioner asserts that while the application was still pending, a Request for Continued Examination (RCE) was filed under 37 C.F.R. § 1.114 with an amendment. To support this assertion, petitioner provided a copy of the RCE, the amendment and a copy of a stamped return postcard that properly identifies and acknowledges receipt of the RCE and amendment by the United States Patent and Trademark Office (PTO) on August 22, 2003.

A review of the application file reveals that the RCE and amendment filed on August 22, 2003 is now in the application file. Since the filing of the RCE was clearly timely under the provisions of 37 C.F.R. § 1.114 and 37 C.F.R. § 1.304, the Notice of Abandonment mailed on August 6, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 2800 support staff for processing of the RCE and amendment. The application file will then be forwarded to the examiner in charge for the preparation of an Office action considering the amendment filed with the RCE.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Sharon A. Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,911,709	1999-06-15	08/579,258	1995-12-27	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James D. Wright/	Date (YYYY-MM-DD)	2007-09-08
Name	James D. Wright	Registration Number	43291

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5911709
Issue Date: June 15,1999
Application No. 08579258
Filed: December 27,1995
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 8,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 8,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

1-14-2010

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

Patent No. : 5,711,239
Ser. No. : 08/579,332
Inventor(s) : Roar Rolland Ramde
Issued : January 27, 1998

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

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

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

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

E. Eugene Thigpen
Petroleum Geo Services, Inc.
P.O. Box 42805
Houston, TX 77242-2805

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARNOLD & ASSOCIATES
GORDON T. ARNOLD
2603 AUGUSTA
SUITE 800
HOUSTON, TX 77057

MAILED

JUN 04 2010

OFFICE OF PETITIONS

In re Patent No. 5,711,239 :
Issue Date: January 27, 1998 :
Application No. 08/579,332 : ON PETITION
Filed: December 27, 1995 :
Attorney Docket No. P70635US :

This is a decision on the petition filed March 8, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 25

William H. Swain
4662 Gleason Avenue
Sarasota, FL 34242

JUN 28 2001

In re Application of	:	
William H. Swain	:	DECISION ON PETITION
Application No.: 08/579,395	:	TO WITHDRAW THE
Filing Date: December 27, 1995	:	HOLDING OF ABANDONMENT
For: ERROR CORRECTION BY	:	
SELECTIVE MODULATION	:	

This is a decision on the letter filed on January 8, 2001 requesting "Withdrawal of Notice of Abandonment of 28 December 2000." It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. There is no fee for this petition.

The Petition is GRANTED.

A review of the Application file reveals that a Notice of Abandonment was mailed on December 28, 2000 holding the Application to be abandoned for failure to timely file a proper response to the Office Action mailed on January 24, 2000.

Petitioner contends that a timely response dated March 24, 2000 to the Office Action of January 24, 2000 was deposited with Airborne Express on March 23, 2000 and received at the U.S. Patent and Trademark Office on March 27, 2000. Petitioner submits as evidence a copy of the mailing label (Exhibit #3) and the mailing receipt (Exhibit #2) from Airborne Express; as well as a copy of a $156.00 check (Exhibit #4) indicated as payment for 4 new claims and a copy of the Response (i.e., an amendment). The mailing receipt indicates receipt by a G. Negash on March 27, 2000. Patent Office records indicate there is a Ghidei Negash who works in the Office of Initial Patent Examination (OIPE). Patent Office records also indicate receipt of a $156.00 check on March 27, 2000 as well as deposit of the check on March 28, 2000. The copy of the Response cancels all claims except claims 32 through 66 which are included with the Response. Claims 32-66 includes 18 independent claims and a total of 34 claims while Patent Office records indicate that Applicant previously paid for 14 independent claims and a total of 31 claims. The $156.00 check would account for the fee at the time for the 4 new independent claims. All of the evidence taken together is sufficient to establish that there was no abandonment in fact.

The Notice of Abandonment mailed December 28, 2000 is **VACATED**.

A copy of sections 503, 512 and 513 of the Manual of Patent Examining Procedure (MPEP) is enclosed. It is recommended that 1) a self-addressed postcard (which itemizes and properly identifies items which are being filed) as set forth in section 503 and 2) a Certificate of Mailing as set forth in section 512, be included with all future correspondence submitted to the PTO. Petitioner should also be aware that the benefits of "Express Mail" as set forth in 37 CFR 1.10 only apply to "Express Mail" with the United States Postal Service. See section 513 of the MPEP.

The Application is being forwarded to the Technical Support Staff for processing of the Response filed with the petition.

Edward Westin

Edward P. Westin
Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

"The authorization given on_____, to the PTO to communicate with me via the Internet is hereby withdrawn. I understand that the withdrawal is effective when approved rather than when received."

Where a written authorization is given by the applicant, communications via Internet e-mail, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used. In such case, a printed copy of the Internet e-mail communications MUST be given a paper number, entered into the Patent Application Location and Monitoring System (PALM) and entered in the patent application file. A reply to an Office action may NOT be communicated by applicant to the PTO via Internet e-mail. If such a reply is submitted by applicant via Internet e-mail, a paper copy will be placed in the appropriate patent application file with an indication that the reply is NOT ENTERED.

PTO mployees are NOT permitted to initiate communications with applicants via Internet e-mail unless there is a written authorization of record in the patent application by the applicant.

All reissue applications are open to public inspection under 37 CFR 1.11(a) and all papers relating to a reexamination proceeding which have been entered of record in the patent or reexamination file are open to public inspection under 37 CFR 1.11(d). PTO employees are NOT permitted to initiate communications with applicant in a reissue application or a patentee of a reexamination proceeding via Internet e-mail unless written authorization is given by the applicant or patentee.

AUTHENTICATION OF SENDER BY A PATENT ORGANIZATION RECIPIENT (ARTICLE 6)

The misrepresentation of a sender's identity (i.e., spoofing) is a known risk when using electronic communications. Therefore, Patent Organization users have an obligation to be aware of this risk and conduct their Internet activities in compliance with established procedures.

Internet e-mail must be initiated by a registered practitioner, or an applicant in a pro se application, and sufficient information must be provided to show representative capacity in compliance with 37 CFR 1.34. Examples of such information include the attorney registration number, attorney docket number, and patent application number.

USE OF ELECTRONIC MAIL SERVICES (ARTICLE 7)

Once e-mail correspondence has been received from the applicant, as set forth in Patent Article 4, such correspondence must be responded to appropriately. The Patent Examiner may respond to an applicant's e-mail correspondence by telephone, fax, or other appropriate means.

INTERVIEWS (ARTICLE 8)

Internet e-mail shall NOT be used to conduct an exchange or communications similar to those exchanged during telephone or personal interviews unless a written authorization has been given under Patent Article 5 to use Internet e-mail. In such cases, a paper copy of the Internet e-mail contents MUST be made and placed in the patent application file as required by the Federal Records Act in the same manner as an Examniner Interview Summary Form is entered.

POLICY GUIDANCE AND CLARIFICATIONS (ARTICLE 13)

Within the Patent Organization, any questions regarding Internet usage policy should be directed to the user's immediate supervisor. Non-PTO personnel should direct their questions to the Office of the Deputy Assistant Commissioner for Patent Policy and Projects.<

503 Application Number and Filing Receipt [R-1]

37 CFR 1.54. Parts of application to be filed together; filing receipt.

(a) It is desirable that all parts of the complete application be deposited in the Office together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. See § 1.53 (f) and (g) with regard to completion of an application.

(b) Applicant will be informed of the application number and filing date by a filing receipt, unless the application is an application filed under § 1.53(d).

Application numbers consisting of a series code and a serial number are assigned by the Office of Initial Patent Examination (OIPE) immediately after mail has been opened.

The following series codes are assigned to the applications identified below:

(A) 01/ - 09/ - for nonprovisional applications (utility, plant, and reissue)*>,<

>- The 01 series code was used from year 1925 to 1934,

02 – 1935 to 1947,
03 – 1948 to 1959,
04 – 1960 to 1969,
05 – 1970 to 1978,
06 – 1979 to 1986,
07 – 1987 to 1992,
08 – 1993 to 1997, and
09 – 1998 to present;<

(B) 29/ - for design applications;
(C) 60/ - for provisional applications; and
(D) 90/ - for reexamination proceedings.

word original, as used herein, is defined as correspondence which is personally signed in permanent ink by the person whose signature appears thereon. Where copies of correspondence are acceptable, photocopies or facsimile transmissions may be filed. For example, a photocopy or facsimile transmission of an original of an amendment, declaration (e.g., under 37 CFR 1.63 or 1.67), petition, issue fee transmittal form, authorization to charge a deposit account, etc., may be submitted in a patent application. Where copies are permitted, second and further generation copies (i.e., copy of a copy) are acceptable. For example, a client may fax a paper to an attorney and the attorney may then fax the paper to the Office, provided the paper is eligible to be faxed (see MPEP § 502.01). The original, if not submitted to the Office, should be retained as evidence of proper execution in the event that questions arise as to the authenticity of the signature reproduced on the photocopy or facsimile-transmitted correspondence. If a question of authenticity arises, the Office may require submission of the original.

When a document that is required by statute to be certified must be filed (such as a certified copy of a foreign patent application pursuant to 35 U.S.C. 119 or a certified copy of an international application pursuant to 35 U.S.C. 365) a copy of the certification, including a photocopy or facsimile transmission, will not be acceptable. The requirement for an original certification does not apply to certifications such as required under 37 CFR 1.8 since these certifications are not required by statute.

>

502.03 Communications via the Internet [R-1]

The Office published a Patent Internet Usage Policy to

(A) establish a policy for use of the Internet by the Patent Examining Corps and other organizations within the PTO,

(B) address use of the Internet to conduct interview-like communications and other forms of formal and informal communications,

(C) publish guidelines for locating, retrieving, citing, and properly documenting scientific and technical information sources on the Internet,

(D) inform the public how the PTO intends to use the Internet, and

(E) establish a flexible Internet policy framework which can be modified, enhanced, and corrected as the PTO, the public, and customers learn to use, and subsequently integrate, new and emerging Internet technology into existing business infrastructures and everyday activities to improve the patent application, examining, and granting functions.

See *Internet Usage Policy*, 64 F.R. 33056 (June 21, 1999). The Articles of the Patent Internet Usage Policy pertinent to communications via electronic mail are reproduced below. See MPEP § 904.02(c) for information pertinent to Internet searching, and MPEP § 707.05(e) for information pertaining to the citation of electronic documents. See also MPEP § 713.04 for recordation of e-mail interviews.

CONFIDENTIALITY OF PROPRIETARY INFORMATION (ARTICLE 4)

If security and confidentiality cannot be attained for a specific use, transaction, or activity, then that specific use, transaction, or activity shall NOT be undertaken/conducted.

All use of the Internet by Patent Organization employees, contractors, and consultants shall be conducted in a manner that ensures compliance with confidentiality requirements in statutes, including 35 U.S.C. 122, and regulations. Where a written authorization is given by the applicant for the PTO to communicate with the applicant via Internet e-mail, communications via Internet e-mail may be used.

Backup, archiving, and recovery of information sent or received via the Internet is the responsibility of individual users. The OCIO does not, and will not, as a normal practice, provide backup and recovery services for information produced, retrieved, stored, or transmitted to/from the Internet.

COMMUNICATIONS VIA THE INTERNET AND AUTHORIZATION (ARTICLE 5)

Communications via Internet e-mail are at the discretion of the applicant.

Without a written authorization by applicant in place, the PTO will not respond via Internet e-mail to any Internet correspondence which contains information subject to the confidentiality requirement as set forth in 35 U.S.C. 122. A paper copy of such correspondence will be placed in the appropriate patent application.

The following is a sample authorization form which may be used by applicant:

"Recognizing that Internet communications are not secure, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

A written authorization may be withdrawn by filing a signed paper clearly identifying the original authorization. The following is a sample form which may be used by applicant to withdraw the authorization:

If a self-addressed postcard is submitted with a patent application, that postcard will be provided with both the receipt date and application number prior to returning it to the addressee. The application number identified on such a postcard receipt is merely the preliminary assignment of an application number to the application, and should not be relied upon (e.g., with respect to foreign filings) as necessarily representing the application number assigned to such application. See 37 CFR 1.53(b). The filing receipt represents the official assignment by the **>Patent and Trademark Office (PTO)< of a specific application number to a particular application. See 37 CFR 1.54(b). The application number officially assigned to an application on the filing receipt may differ from the application number identified on a postcard receipt submitted with such application, and, as between inconsistent filing receipts and postcard receipts, the application number on the filing receipt is controlling.

A continued prosecution application filed under 37 CFR 1.53(d) will be assigned the application number of the prior application for identification purposes.

The identifying data on the postcard should include:

(A) applicant's name(s) (preferred) or an alphanumeric identifier;

(B) title of invention;

(C) number of pages of specification, claims (for nonprovisional applications), and sheets of drawing;

(D) whether oath or declaration is included;

(E) provisional application cover sheet; and

(F) amount and manner of paying the fee.

A return postcard should be attached to *each* patent application for which a receipt is desired.

It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the *>PTO<.

It should be recognized that the identification of an application by application number does not necessarily signify that the ** >PTO< has accepted the application as complete (37 CFR 1.53(a)).

A nonprovisional application is entitled to a filing date as of the date of receipt of the specification, including claims, and any required drawing. The filing receipt will be mailed at the tim a determination is made that the application meets the minimum requirements to receive a filing date. The oath or declaration and filing fee may be filed later than the remaining application papers, but if so, they must be accompanied by the required surcharge. If the oath or declaration, and/or filing fee, and appropriate surcharge are not timely filed, the application will be abandoned.

A provisional application is entitled to a filing date as of the date of receipt of the specification and any required drawing(s). See 37 CFR 1.53(c). A cover sheet or letter identifying the application as a provisional application is required to prevent the provisional application from being treated as a nonprovisional application. 37 CFR 1.53(c)(1).

Each application which meets the minimum requirements to receive a filing date is given a filing date. It is important, when referring to application files, to identify them by their filing dates as well as by application numbers.

The OIPE mails a filing receipt to the attorney or agent, if any, otherwise to the applicant, for each application filed which meets the minimum requirements to receive a filing date, giving the application number, filing date, and group to which assigned.

Attorney docket numbers must be limited to a maximum of 12 characters to prevent truncation. The Patent Application Location and Monitoring (PALM) system data base allows a maximum of 12 characters for the attorney docket numbers. Spaces, slashes, and hyphens will no longer be included in the entered docket number on the official filing receipt. In an application where CASE or NAVY-CASE appears before the first character in the docket number, only the characters after CASE or NAVY-CASE will be entered on the official filing receipt.

The application papers are placed in a file wrapper and certain data placed thereon by the OIPE.

Applications which are entitled to a filing date and are filed, whether by regular mail or "Express Mail" under 37 CFR 1.10, by hand-delivery or otherwise, will not be returned to applicant even if requested. See 37 CFR 1.59. Accordingly, applicants must be careful not to file applications which are not intended to be filed, e.g., duplicates of applications already filed. Since 37 CFR 1.26(a) precludes refund of an application filing fee when applicant desires to withdraw an application, any request by applicant not to process or charge an application filing fee because the application was not intended to be filed must be in the form of a petition under 37 CFR 1.183 requesting suspension of the rules to the extent that the filing fee not be processed or charged. Any such petition must include the fee set forth in 37 CFR 1.17(h) and must be accompanied by an express abandonment of the application in accordance with 37 CFR 1.138. In order for such a petition to be granted, it must ordinarily be filed and acted upon prior to the date on which the application filing fee is processed or charged by the Office with regard to the application.

RETURN POSTCARD

If a receipt of any surcharge, paper or fee filed in the >PTO< is desired, it may be obtained by enclosing with a

the paper, a self-addressed postcard identifying the * >item< The ** >PTO< will stamp the receipt date on the * >postcard< and place it in the outgoing mail. >A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.<

** >The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, applicant identifier, application number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application), etc.

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings, etc.) of an application if one of the components or portion of a component is found to be missing by the PTO. Each separate component should be specifically and properly itemized on the postcard.

The person receiving the item(s) in the PTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the PTO. If any of the items listed on the postcard are not being submitted to the PTO, those items will be crossed off and the postcard initialed by the person receiving the items.<

Upon return of a postcard receipt from the PTO, the >postcard< receipt should be promptly reviewed by the person who filed the * >items< to ensure that * >every item specifically denoted on the postcard< was received by the PTO. If the postcard receipt has been annotated to indicate that a particular * >item denoted on the postcard< was not received >by the PTO<, the postcard receipt will not serve as *prima facie* evidence of receipt of that * >item< in the PTO.<

504 Assignment of Application for Examination

The Office of Initial Patent Examination assigns a nonprovisional application to the examining group to which it appears to belong. Provisional applications will not be examined.

505 "Office Date" Stamp of Receipt [R-1]

37 CFR 1.6. Receipt of correspondence.

(a) *Date of receipt and Express Mail date of deposit.* Correspondence received in the Patent and Trademark Office is stamped with the date of receipt except as follows:

**>

(1) The Patent and Trademark Office is not open for the filing of corespondence on any day that is a Saturday, Sunday, or Federal holiday within the Distarict of Columbia. Except for correspondence transmitted by facsimile under paragraph (a)(3) of this section, or filed electronically under paragraph (a)(4) of this section, no correspondence is received in the Office on Saturdays, Sundays, or Federal holidays within the District of Columbia.<

(2) Correspondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service.

(3) Correspondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

>

(4) Trademark-related correspondence transmitted electronically will be stamped with the date on which the Office receives the transmission.<

*****

The Office stamps papers and fees with the date of their receipt in the Patent and Trademark Office. The stamp is referred to as the "Office Date" stamp.

When the last day for taking any action or paying any fee in the U.S. Patent and Trademark Office falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the action or the fee is considered timely if the action is taken or the fee is paid on the next succeeding business day. **>Effective November 29, 1999, Public Law 106-113 amended 35 U.S.C. 119(e)(3) to extend the period of pendency of a provisional application to the next succeeding business day if the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia. 35 U.S.C. 119(e)(3) as amended by Public Law 106-113 applies to any provisional applications filed on or after June 8, 1995 but has no effect on any patent which is the subject of litigation in an action commenced before November 29, 1999.

WASHINGTON

Seattle
- 7600 Sand Point Way, N.E., 98115,
- Tel. 206-526-6026.
- 101 Stewart St., Suite 500, 98101-1098,
- Tel. 206-728-5300.
- Jackson Federal Bldg.
- 915 Second Ave., Room 1856, 98174
- Tel. 206-220-7660.
- 2001 6th Ave., Suite 650, 98121
- Tel. 206-553-5615.
- 2725 Montlake Blvd., East, 98112,
- Tel. 206-860-3200.
- 1801 Fairview Ave., East 98102
- Tel. 206-442-7656.
- 915 Second Ave., Room 3292, Federal Bldg., 98174
- Tel. 206-220-7970.

Spokane
- 1020 West Riverside, 99201
- Tel. 509-353-2625.

WEST VIRGINIA

Charleston
- 405 Capitol St., Suite 807, 25301
- Tel. 304-347-5123.

Wheeling
- 1310 Market St., 2nd Fl., 26003
- Tel. 304-233-7492.

WISCONSIN

Milwaukee
- 517 East Wisconsin Ave., Room 596, 53202
- Tel. 414-297-3473.

WYOMING

Served by:
- 1625 Broadway, Suite 680,
- Denver, Colorado 80202
- Tel. 303-844-6622.

512 Certificate of Mailing or Transmission [R-1]

37 CFR 1.8. Certificate of mailing or transmission.

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on, the following:

(i) *Relative to Patents and Patent Applications—*

(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under § 1.53(d);

(B) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";

(C) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);

(D) The filing of an international application for patent;

(E) The filing of correspondence in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Preliminary Examining Authority;

(F) The filing of a copy of the international application and the basic national fee necessary to enter the national stage, as specified in § 1.494(b) or § 1.495(b).

(ii) *Relative to Trademark Registrations and Trademark Applications—*

(A) The filing of a trademark application.

(B) [Reserved]

(C) [Reserved]

(D) [Reserved]

(E) [Reserved]

(F) [Reserved]

(iii) *Relative to Disciplinary Proceedings—*

(A) Correspondence filed in connection with a disciplinary proceeding under part 10 of this chapter.

(B) [Reserved]

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

- Charleston Laboratory
- P.O. Box 12607, 29412-9110
- Tel. 803-762-8500

Columbia
- 1835 Assembly St., Suite 172, 29201
- Tel. 803-765-5345

Upstate
- Park Central Office Park, Bldg. 1, Suite 109
- 555 N. Pleasantburg Dr., Greenville, 29607
- Tel. 864-271-1976

SOUTH DAKOTA

Siouxland
- Augustana College,
- 2001 S. Summit Ave., Room SS-29A, Sioux Falls, 57197
- Tel. 605-330-4264

TENNESSEE

Knoxville
- 301 East Church Ave., 37915
- Tel. 423-545-4637

Memphis
- 22 North Front St., Suite 200, 38103
- Tel. 901-544-4137

Nashville
- 404 James Robertson Pkwy., Suite 114, 37219
- Tel. 615-736-5161

TEXAS

Austin
- 903 San Jacinto Blvd., Suite 121, 78701-2450
- Tel. 512-916-5595.
- 1700 Congress, 2nd Fl., 78701
- P.O. Box 12728, 78711
- Tel. 512-916-5939.

Dallas
- 6303 Harry Hines Blvd., Suite 210, 75235-5269
- Tel. 214-640-4400.
- 2050 N. Stemmons Fwy., Suite 170, 75207
- P.O. Box 420069, 75342-0069
- Tel. 214-767-0542.
- 525 Griffin St., Room 622, 75202
- Tel. 214-767-9294
- 1100 Commerce St., Room 7B23, 75242
- Tel. 214-767-8001

Fort Worth
- 819 Taylor St., Room 10A26, 76102-6171
- Tel. 817-334-2668.
- 711 Houston St., 76102
- Tel. 817-212-2673

Galveston
- Galveston Laboratory
- 4700 Ave. G, 77551-5997
- Tel. 409-766-8511.

Houston
- 500 Dallas, Suite 1160, 77002
- Tel. 713-718-3062

San Antonio
- 1222 N. Main, Suite 450, 78212
- Tel. 210-228-9878

UTAH

Salt Lake City
- 324 South State St., Suite 221, 84111
- Tel. 801-524-5116
- 125 S. State St., Room 1210, NOAA Federal Bldg. 84147-1102
- Tel. 801-524-5122

VERMONT

Montpeller
- National Life Bldg., Drawer 20, 05620-0501
- Tel. 802-828-4508

VIRGINIA

Arlington
- 2001 Jefferson Davis Hwy., Room 509, 20231
- Tel. 703-306-3315
- 1213 Jefferson Davis Hwy., Suite 805, 22202
- Tel. 703-603-0301.

Norfolk
- 200 World Trade Center, 23510
- Tel. 804-441-6864.
- 439 W. York St., 23510-1114
- Tel. 804-441-6776.

Northern Virginia
- 1616 N. Fort Meyer Dr., Suite 1300, Arlington, 22209
- Tel. 703-524-2885.

Richmond
- 704 East Franklin St., Suite 550, 23219
- Tel. 804-771-2246.

Springfield
- 381 Elden St., Herndon, 22070
- Tel. 703-487-9300.

Wallops Island
- P.O. Box 39, 23337
- Tel. 804-824-7311

A suggested format for a Certificate of Mailing and a Certificate of Transmission under 37 CFR 1.8 to be included with the correspondence is reproduced below.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

on _____.
(Date)

Typed or printed name of person signing this certificate

_____

Signature_____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703)___-____)

on_____.
(Date)

Typed or printed name of person signing this certificate

_____

Signature_____

¶ 5.02 Format of Certificate of Mailing or Transmission

The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
Assistant Commissioner for Patents
Washington, D.C. 20231

on _____.

(Date)

Typed or printed name of person signing this certificate:

_____

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)_____-_____ on _____. (Date)

Typed or printed name of person signing this certificate:

_____

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

For a *Pro Se* inventor, Form Paragraph 17.11 may be used in place of Form Paragraph 5.02.

¶ 17.11 Suggestion of Certificate of Mailing, Pro Se

It is called to applicant's attention that if a communication is deposited with the U. S. Postal Service and mailed to the Office by First Class Mail before the reply time has expired, applicant may submit the reply with a "Certificate of Mailing" which merely asserts that the reply is being mailed on a given date. So mailed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to:
Assistant Commissioner for Patents
Washington, D.C. 20231

on _____(date).

Typed or printed name of person signing this certificate

_____

Signature_____

Date_____

Under 37 CFR 1.8, a person may state on certain papers directed to the Office (exceptions are stated in 37 CFR 1.8) the date on which the paper will be deposited in the United States Postal Service or transmitted by facsimile. If the date stated is within the period for reply, the reply in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for reply. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

The Certificate of Transmission procedure, however, also applies to papers transmitted to the Office from a foreign country provided that the correspondence being transmitted is not prohibited from being transmitted by facsimile and is not otherwise precluded from receiving the benefits under 37 CFR 1.8.

It should be noted, however, that the Office will continue its normal practice of stamping the date of receipt ("Office Date" Stamp) on all papers received through the mail or by facsimile except those filed under 37 CFR 1.10. (See MPEP § 513). The date stamped will also be the date which is entered on Office records and from which any subsequent periods are calculated. For example, 37 CFR 1.192 gives an appellant 2 months from the date of the appeal to file an appeal brief. For example, if the last day to reply to a final rejection was November 10, 1997, and applicant deposited a Notice of Appeal with fee in the U.S. mail on November 10, 1997, and so certified, that appeal is timely even if it was not received in the Patent and Trademark Office until November 16, 1997. Since the date of receipt will be used to calculate the time at which the brief is due, the brief was due on January 16, *>1998<. This is 2 months after the Mail Center date.

37 CFR 1.8(a)(2)(i)(A) specifically refers to a request for a continued prosecution application (CPA) filed under 37 CFR 1.53(d) as a correspondence filed for the purposes of obtaining an application filing date and the procedures and benefit set forth in 37 CFR 1.8(a)(1) are not applicable to a request for a CPA. The date on a certificate of mailing or transmission (37 CFR 1.8(a)) of a CPA is not controlling or even relevant. A CPA filed by facsimile transmission will not be accorded a filing date as of the date on the certificate of transmission unless Office records indicate, or applicant otherwise establishes pursuant to 37 CFR 1.6(f), receipt in the Office of the complete CPA on the date on the certificate of transmission and that date is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

PROCEDURE BY APPLICANT

(A) The certification requires a signature. Specifically, if the certification appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification. Although not specifically required by 37 CFR 1.8, it is preferred that the certificate be signed by the applicant, assignee, or registered practitioner.

(B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, the certification should be on a separate sheet securely attached to the paper.

(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable.

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a copy of a postcard receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to MPEP § 503 relative to the use of postcards as receipts.

(D) In situations wherein the correspondence includes papers for more than one application (e.g., a single envelope containing separate papers responding to Office actions in different applications) or papers for various parts of the Office (e.g., a patent issue fee transmittal form PTOL-85B and an assignment), each paper must have its own certification as a part thereof or attached thereto.

Although Form PTOL-85B, Issue Fee Transmittal Form, may contain a Certificate of Mailing thereon, a separate Certificate of Mailing is required for all papers included with this form, including formal drawings, since papers are separated and flow to different areas of the Office. Checks submitted with the papers do not require a separate certification.

(E) In situations wherein the correspondence includes several papers directed to the same area of the Office for the same application (for example, a proposed reply under 37 CFR 1.116 and a Notice of Appeal), each paper should have its own certification as a part thereof or attached thereto.

(F) For the purposes of 37 CFR 1.8(a)(1)(i)(A), first class mail is interpreted as including "Express Mail" and "Priority Mail" deposited with the U.S. Postal Service.

Alternatively, the correspondence may be submitted with a cover or transmittal letter which itemizes the papers and on which is placed the certificate under 37 CFR 1.8.

USE OF STAMPED CERTIFICATION

Some practitioners place the certification language on the first page of a paper with an inked stamp. Such a practice is encouraged because the certification is not only readily visible but also forms an integral part of the paper.

OFFICE PROCEDURE

A. Mail Center of the Office of Initial Patent Examination

The Mail Center of the Office of Initial Patent Examination will continue to date stamp the actual date of receipt of all papers received by mail in the Office. No attempt will be made to retain the envelopes in which the papers are received or to indicate on the papers the postal cancellation date (postmark).

However, the benefits of 37 CFR 1.8 or 37 CFR 1.10 apply only to documents delivered to the Office by the U.S. Postal Service. A number of instances have been uncovered where individuals are certifying that documents were deposited with the U.S. Postal Service when, in fact, the documents were hand-carried or delivered to the Office via commercial couriers, e.g., "Federal Express," "DHL," "Purolator," "Air Borne," "UPS," etc. In those instances where documents include a Certificate of Mailing under 37 CFR 1.8 or "Express Mail" mailing label (commonly used to comply with 37 CFR 1.10) but were delivered to the Office by other than the U.S. Postal Service, Mail Center personnel are placing a notice indicating that fact on the correspondence involved to alert Office personnel that the benefits of 37 CFR 1.8 or 37 CFR 1.10 do not apply.

B. Processing Areas

When papers are received in an examining group, the date of receipt in the group is stamped on the papers in accordance with 37 CFR 1.6(a).

The date indicated on the Certificate of Mailing or of Transmission will be used by the Office only to determine if the paper was deposited in the United States Postal Service or transmitted by facsimile within the period for reply. If the paper was actually received in the Office within the period for reply, there is no need to refer to the Certificate. Note however, that 37 CFR 1.6 (a)(3) provides that "[c]orrespondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia."

If, how ver, the paper was received in the Patent and Trademark Office after the end of the period for reply, the paper should be inspected to determine if a Certificate of Mailing or of Transmission has been included. Where no such Certificate is found, the paper is untimely since applicant did not reply within the period for reply. This may result in abandonment of the application or other loss of rights.

In those instances where a Certificate of Mailing or of Transmission does appear in the paper or a cover letter thereto, a check should be made to determine whether the indicated date of deposit or transmission is within the period for reply. If the date indicated in the Certificate is after the end of the period for reply, the paper is untimely and no notation of the date need be made. Where the date indicated on the Certificate is within the period for reply, the paper should be considered to be timely filed. A notation should be made adjacent to the Office stamp indicating the date of receipt ("Office Date" Stamp) which notes the date stated on the Certificate. This notation should be "C of Mail" or "C of Fax" followed by the date. A paper with a certificate dated November 10, 1997, would be noted next to the "Office Date" Stamp "(C of Mail. 11/10/97)." This notation should also appear on the "Contents" portion of the file wrapper.

If the period set for taking an action in the Patent and Trademark Office ends on a Saturday, Sunday, or Federal holiday within the District of Columbia (37 CFR 1.7), the action will be considered to be timely if deposited in the United States mail or transmitted by facsimile and certified under 37 CFR 1.8(a) on the next succeeding day which is not a Saturday, Sunday, or a Federal holiday.

It should be noted that the filing of a paper for the purpose of obtaining a continuation or division application under 37 CFR 1.53(d) and former 37 CFR 1.60 or 1.62 is excluded from the Certificate practice under 37 CFR 1.8(a)(2)(i)(A) since it is considered to be the filing of a national patent application.

**>Effective November 29, 1999, Public Law 106-113 amended 35 U.S.C. 119(e)(3) to extend the period of pendency of a provisional application to the next succeeding business day if the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia. 35 U.S.C. 119(e)(3) as amended by Public Law 106-113 applies to any provisional applications filed on or after June 8, 1995 but has no effect on any patent which is the subject of litigation in an action commenced before November 29, 1999.<

No benefit will be given to a Certificate of Mailing or Transmission relative to the filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date. However, note that new patent applications filed in accordance with 37 CFR 1.10 will be stamped by the Office with the date of deposit as "Express Mail" with the United States Postal Service. For example, if a new patent application is deposited as "Express Mail" in accordance with

37 CFR 1.10 on a Saturday and the United States Postal Service gives it a date of deposit of Saturday, the Office will accord and stamp the correspondence with the Saturday date. 37 CFR 1.6(a)(2).

All Certificates of Mailing or Transmission filed in applications should be placed in the file wrappers directly below the papers to which they refer.

Group personnel receiving a hand-delivered paper from other than U.S. Postal Service personnel should inspect the paper to ensure that the benefits of 37 CFR 1.8 or "Express Mail" benefits under 37 CFR 1.10 are not accorded in error. If the paper contains a certificate of mailing under 37 CFR 1.8 or "Express Mail" mailing label (commonly used to comply with 37 CFR 1.10), the words "HAND DELIVERED" should be written adjacent to the group date stamp.

Applicant should be notified in the next Office action when a paper containing a Certificate of Mailing has been denied the benefits under 37 CFR 1.8 or a paper containing an "Express Mail" mailing label (commonly used to comply with 37 CFR 1.10) is denied benefits under 37 CFR 1.10 by including, for example, form paragraph 5.04.

¶ 5.04 Benefit of Certificate of Mailing Denied

The [1] filed [2] is not entitled to the benefits of 37 CFR 1. [3] since it was not deposited with the U. S. Postal Service for delivery to the Patent and Trademark Office. Therefore, the date of receipt in the Patent and Trademark Office has been used to determine the timeliness of the paper.

Examiner Note:

1. This form paragraph is to be used in those situations where correspondence contains a Certificate of Mailing under 37 CFR 1.8 or requests the benefit of "Express Mail" under 37 CFR 1.10, but the correspondence was not actually deposited with the U. S. Postal Service.
2. In bracket 3, insert --8-- or --10--, as appropriate.

Misuse of a Certificate of Mailing under 37 CFR 1.8 or improperly claiming the benefit of 37 CFR 1.10 which appears to be more than a one-time, inadvertent error should be brought to the attention of the Office of Enrollment and Discipline.

ORIGINAL MAILED PAPER NOT DELIVERED

Paragraphs (b) and (c) of 37 CFR 1.8 concern the situation where a paper containing a Certificate was timely deposited in the U.S. mail or transmitted by facsimile, but never received by the Patent and Trademark Office. In the examining groups, all submissions under these paragraphs should be considered and the sufficiency thereof determined by the Group Director. The statement required by 37 CFR 1.8(b)(3) is no longer required to be verified.

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35 U.S.C. 21. Filing date and day for taking action.

(a) The Commissioner may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Commissioner.

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37 CFR 1.6. Receipt of correspondence.

(a) *Date of receipt and Express Mail date of deposit.* Correspondence received in the Patent and Trademark Office is stamped with the date of receipt except as follows:

**>

(1) The Patent and Trademark Office is not open for the filing of corespondence on any day that is a Saturday, Sunday, or Federal holiday within the Distarict of Columbia. Except for correspondence transmitted by facsimile under paragraph (a)(3) of this section, or filed electronically under paragraph (a)(4) of this section, no correspondence is received in the Office on Saturdays, Sundays, or Federal holidays within the District of Columbia.<

(2) Correspondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service.

(3) Correspondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

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(4) Trademark-related correspondence transmitted electronically will be stamped with the date on which the Office receives the transmission.<

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37 CFR 1.10. Filing of correspondence by "Express Mail".

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

The statutory authority for the granting of a filing date based on the date of deposit for correspondence sent by "Express Mail" and received by the Office is found in section 21(a) of Title 35 of the United States Code.

The specific rule for obtaining a filing date as of the date of deposit in "Express Mail" (rather than the date of receipt at the Office) is 37 CFR 1.10, as revised, effective December 2, 1996.

EFFECTIVE DATE, WEEKENDS & HOLIDAYS

Effective December 2, 1996, 37 CFR 1.6(a)(2) provides that correspondence deposited as "Express Mail" in accordance with 37 CFR 1.10 will be stamped, and, therefore, considered as filed on the date of its deposit, regardless of whether that date is a Saturday, Sunday or Federal holiday within the District of Columbia. 37 CFR 1.10 provides a procedure for assigning the date on which any paper or fee is deposited as "Express Mail" with the United States Postal Service (USPS) as the filing date of the paper or fee in the Patent and Trademark Office (Office). The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. This holds true for any day that the correspondence may be accepted as "Express Mail" by the USPS, even when the paper or fee is deposited and accepted on a Saturday, Sunday or Federal holiday within the District of Columbia. For example, if a person files a patent application by "Express Mail" with the USPS on a Saturday in compliance with 37 CFR 1.10, he or she will receive the benefit of the Saturday date, even though the Office is closed on Saturdays and, therefore, the person could not have filed the application by depositing it directly at the Office on that Saturday. See 37 CFR 1.6(a)(1). In those cases where the procedure of 37 CFR 1.10(a) has not been properly followed, e.g., the "date-in" is illegible, the filing date of the correspondence will be the date of actual receipt in the Office. An applicant may file a petition under the conditions specified in 37 CFR 1.10(c), (d) or (e) (discussed below) presenting whatever arguments and evidence that the paper or fee is entitled to a filing date other than the filing date accorded by the Office.

DATE-IN, DIRECT DEPOSIT, "EXPRESS MAIL" BOX RECEPTACLES & LOG BOOKS

The procedure in 37 CFR 1.10(a) requires the use of the "Express Mail Post Office to Addressee" service of the USPS. This service provides for the us of a mailing label on which the USPS clearly indicates the date on which it was deposited. Correspondence sent by the "Express Mail Post Office to Addressee" s rvice is considered filed in the Office on the "date-in" entered by the USPS. The "date-in" on the "Express Mail" mailing label must be completed by

the USPS, not by the applicant. For correspondence filed in accordance with 37 CFR 1.10, Office personnel will routinely look to the "Express Mail" mailing label, and stamp the "date-in" or other official USPS notation as the filing date of the correspondence. Accordingly, if the USPS enters the deposit date as its "date-in," the correspondence will receive the deposit date as its filing date. If the USPS deposit date cannot be determined, the correspondence will be accorded the date of receipt in the Office as the filing date. An applicant may file a petition under the conditions specified in 37 CFR 1.10(c), (d), or (e) (discussed below) presenting whatever arguments and evidence that the paper or fee is entitled to a filing date other than the filing date accorded by the Office.

37 CFR 1.10(b) further provides that correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. On petition, the failure to obtain an "Express Mail" receipt with the "date-in" clearly marked may be considered an omission that could have been avoided by the exercise of due care, as discussed below. While the Office strongly urges direct deposit of "Express Mail" correspondence in order to obtain a legible copy of the "Express Mail" mailing label, parties are not precluded from using "Express Mail" drop boxes, but do so at their own risk.

A paper or fee placed in an "Express Mail" box receptacle after the box has been cleared for the last time on a given day will be considered to be deposited as of the date of receipt ("date-in") indicated on the "Express Mail" mailing label by the Postal Service "Express Mail" acceptance clerk. 37 CFR 1.10(d) permits the Office to correct a USPS "date-in" error when the correspondence is deposited in an "Express Mail" drop box prior to last scheduled pick up of the day, that is, the time clearly marked on the "Express Mail" drop box indicating when the box will be cleared for the last time on the date of deposit. 37 CFR 1.10(d) sets forth the procedures to be followed to be entitled to such a correction.

Parties who do use drop boxes can protect themselves from uncertainty due to illegibl mailing labels by routinely maintaining a log of "Express Mail" deposits in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to later support a petition filed under 37 CFR 1.10(c), (d) or (e). Evidence that came into being after deposit and within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

"EXPRESS MAIL" MAILING LABEL NUMBER

Effective December 2, 1996, 37 CFR 1.10(b) no longer requires a certificate of mailing by "Express Mail" or that the "Express Mail" mailing label number be placed on the correspondence prior to mailing. Correspondence deposited with the USPS on or after December 2, 1996, and which is actually received by the Office will not be denied a filing date as of the "date-in" appearing on the "Express Mail" mailing label because the number of the "Express Mail" mailing label was not placed thereon prior to the original mailing. However, if the number of the mailing label did not appear on the correspondence as originally filed, relief will not be granted on petition under 37 CFR 1.10(c) through (e), even if the party who filed the correspondence satisfies the other requirements of 37 CFR 1.10(c), 1.10(d) or 1.10(e). To be effective, the number must be placed on each separate paper and each fee transmittal either directly on the document or by a separate paper firmly and securely attached thereto. In situations wherein the correspondence includes several papers directed to the same application (for example, the specification, drawings, and declaration for a new application), the correspondence may be submitted with a cover or transmittal letter which should itemize the papers. It is not necessary that the number be placed on each page of a particular paper or fee transmittal. Merely placing the number in one prominent location on each separate paper or fee transmittal (or cover sheet or transmittal letter which should itemize the separate papers and fees) will be sufficient.

Since the filing of correspondence under 37 CFR 1.10 without the number of the "Express Mail" mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition. A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omis sion considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See *Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to

waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail."), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir. 1996); *Nitto Chemical Industry. Co., Ltd. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent applica tion not arbitrary and capricious, because failure to comply with the requirements of 37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183.); *Vincent v. Mossinghoff*, 230 USPQ 621 (D.D.C. 1985) (misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); *Gustafson v. Strange*, 227 USPQ 174 (Comm'r *>Pat.< 1985) (counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); *In re Chicago Historical Antique Automobile Museum, Inc.*, 197 USPQ 289 (Comm'r Pat. 1978) (since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation).

PETITIONS

37 CFR 1.10(c) through 1.10(e) set forth procedures for petitioning the Commissioner to accord a filing date as of the date of deposit as "Express Mail." Briefly, 37 CFR 1.10(c) applies where there is a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS on the "Express Mail" mailing label or other official USPS notation; 37 CFR 1.10(d) applies where the "date-in" is incorrectly entered by the USPS; and 37 CFR 1.10(e) applies where correspondence deposited with the USPS as "Express Mail" is not received by the Office.

PETITION TO CORRECT FILING DATE AND DATE-IN DISCREPANCY

37 CFR 1.10(c) sets forth procedures for filing a petition to the Commissioner for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS or other official USPS notation. Such a petition should:

(A) be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(B) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and

(C) include a true copy of the "Express Mail" mailing label showing the "date-in" or other official notation by the USPS.

PETITION TO CORRECT INCORRECTLY ENTERED DATE-IN

37 CFR 1.10(d) sets forth procedures for filing a petition to the Commissioner to accord a filing date as of the actual date of deposit with the USPS, where the "date-in" or other official notation is incorrectly entered by the USPS. Such a petition should:

(A) be filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(B) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and

(C) include a showing that the correspondence was deposited as "Express Mail" prior to the last scheduled pickup on the requested filing date.

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail". Evidence from the USPS may be the "Express Mail" Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as "Express Mail" may be in the form of a log book which contains information such as the "Express Mail" number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

The reason the Office considers correspondence to have been filed as of the date of deposit as "Express Mail" is that this date has been verified by a disinterested USPS employee, through the insertion of a "date-in," or other official USPS notation, on the "Express Mail" mailing label. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by vidence that came into being <u>after</u> deposit and within one business day after the deposit of the correspondence as "Express Mail."

A petition alleging that the USPS erred in entering the "date-in" will be denied if it is supported only by evidence (other than from the USPS) which was:

(A) created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or

(B) created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail").

On the other hand, a notation in a log book, entered after deposit by the person who deposited the correspondence as "Express Mail" within one business day of such deposit, setting forth the items indicated above, would be deemed on petition to be an adequate showing of the date of deposit under 37 CFR 1.10(d)(3).

37 CFR 1.10(d)(3) further provides that a party must show that correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date.

PETITION FOR CORRESPONDENCE NEVER RECEIVED

37 CFR 1.10(e) sets forth procedures for filing a petition to the Commissioner to accord a filing date as of the date of deposit with the USPS, where correspondence deposited as "Express Mail" is never received by the Office. Such a petition should:

(A) be filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(B) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing;

(C) include a true copy of the originally deposited correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in" or other official notation entered by the USPS; and

(D) include a statement, signed by the person who deposited the documents as "Express Mail" with the USPS, setting forth the date and time of deposit, and declaring that the copies of the correspondence, "Express Mail" mailing label, and returned postcard receipt accompanying the petition are true copies of the correspondence, mailing label and returned postcard receipt originally mailed or received.

37 CFR 1.10(e) provides for the filing of a petition to accord correspondence a filing date as of the date of deposit with the USPS as "Express Mail" only where the correspondence was mailed with sufficient postage and addressed as set out in 37 CFR 1.1(a). There is no corresponding provision that correspondence be properly addressed and mailed with sufficient postage in 37 CFR 1.10(a), (c) and (d), because these sections apply only to correspondence that is actually received by the Office. Correspondence mailed by "Express Mail" that is actually received by the Office will not be denied a filing date as of the date of deposit as "Express Mail" simply because the correspondence was not mailed with sufficient postage or not addressed as set out in 37 CFR 1.1(a). 37 CFR 1.10(e)(3) provides that if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label, the petition should include a showing under 37 CFR 1.10(d)(3), as discussed above, that the correspondence was deposited as "Express Mail" before the last scheduled pickup on the requested filing date in order to obtain a filing date as of that date. 37 CFR 1.10(e) applies only in those situations in which the correspondence at issue was lost *in toto* (i.e., the entire correspondence was not delivered to the Office). Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application), an applicant may not rely upon the provisions of 37 CFR 1.10(e) to establish what document(s) and/or fee(s) were filed in the Office with such correspondence. Rather, where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office.

ADDITIONAL EVIDENCE MAY BE REQUIRED

37 CFR 1.10(f) provides that the Office may require additional evidence to determine whether the correspondence was deposited as "Express Mail" with the USPS on the date in question.

●●●●●●●●● ●●●● ●●●●●●●●●●●●●

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 33

William H. Swain
4662 Gleason Avenue
Sarasota, FL 34242

NOV 26 2002

In re Application of	:	
William H. Swain	:	
Application No.: 08/579,395	:	DECISION ON PETITION
Filing Date: December 27, 2002	:	TO MAKE SPECIAL
For: ERROR CORRECTION BY	:	
SELECTIVE MODULATION	:	

This is a decision on the petition filed September 09, 2002 (dated by applicant as 6 September, 2002) requesting "Advancement of Examination." It is being treated as a petition to make special requesting that the above identified application be granted special status under the provisions of 37 C.F.R. § 1.102(c) and MPEP § 708.02 IV. There is no fee for this petition.

The petition is GRANTED.

The provisions of MPEP § 708.02 IV state that an "application may be made special upon filing a petition including any evidence that the applicant is 65 years of age, or more, such as a birth certificate or applicant's statement."

The present petition was accompanied by a statement from applicant William H. Swain declaring that he is 80 years of age. The statement constitutes sufficient evidence as set forth in MPEP § 708.02 IV.

The application is being forwarded to the Technical Support Staff of Technology Center 2800 for: 1) the refund of the $130.00 that was enclosed with the petition; and 2) the entry of the response that was filed on November 4, 2002 (dated by applicant as 1 November, 2002). The application will then be forwarded to the examiner of record for consideration of the response.

The copy of the response filed via Federal Express on November 20, 2002 (dated by applicant as 19 November, 2002) is being discarded as it is an exact copy of the response filed November 4, 2002. The copy of the letter filed August 5, 2002 (dated by applicant as 29 July, 2002) has been made of record in the file. In the letter, applicant requests "(p)lease tell

me what appeal procedure is appropriate." There is no specific answer to this request. Applicant is invited to read Chapter 1200 of the Manual of Patent Examining Procedure (MPEP) that can be accessed through the USPTO website (www.uspto.gov) if and when applicant chooses to file an appeal.

Any questions concerning this decision should be directed to Edward P. Westin at (703) 308-4823.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5951057	1999-09-14	08579588	1995-12-26	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Donald Spector/	Date (YYYY-MM-DD)	2008-05-13
Name	Donald Spector		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5951057
Issue Date: September 14,1999
Application No. 08579588
Filed: December 26,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 13,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 13,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6147720	2000-11-14	08579655	1995-12-27	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
○	3 ½ year	(1551)
◉	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael E Marion/	Date (YYYY-MM-DD)	2009-05-18
Name	Michael E. Marion	Registration Number	32266

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6147720
Issue Date: November 14,2000
Application No. 08579655
Filed: December 27,1995
Attorney Docket No. PHA-23-074

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

PAPER NO. 28

MAIL

MAY 3 0 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

In re Application of
Sakaegi
Application No. 08/579,739
Filed: December 28, 1995
Attorney Docket No.: 35.C11122
For: COMPUTER PERIPHERAL APPARATUS
WITH POWER SUPPLY CONTROL

DECISION ON PETITION

This is a decision in response to the petition filed February 28, 2002, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application was held abandoned July 10, 2001 for failure to timely reply to the non-final Office action mailed April 9, 2001. The non-final Office action set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed February 8, 2002.

Petitioner asserts non-receipt of the non-final Office action.

In the absence of any irregularity in the mailing of the non-Final Office Action, there is a strong presumption that the non-Final Office Action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-Final Office Action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the non-Final Office Action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the non-Final Office Action on the part of the United States Patent and Trademark Office.

In support of the petition, petitioner has provided a copy of the docket record where the non-Final Office Action would have been entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the non-Final Office Action was not received.

Accordingly, the Notice of Abandonment is hereby **VACATED** and the Notice of Abandonment is **WITHDRAWN**.

A significant amount of time has lapsed since the mailing of the Office action of April 9, 2001 and the mailing of this decision. Accordingly, the file is being forwarded to the examiner for further consideration and for updating the search as appropriate. From there, the file will be forwarded to the Technology Center's technical support staff for processing and mailing of the new Office action. The time period will be set to run from the date the new Office action is mailed.

Joseph J. Rolla, Jr., Director
Technology Center 2600
Communications

08/579,916

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	29

DATE MAILED:

The decision on the petition filed in the above entitled application is as follows:

☐ Delay in Prosecution Held Unavoidable (35 U.S.C. 133),

Petition Granted _____

☐ Delayed Payment of Issue Fee Accepted (35 U.S.C. 151),

Petition Granted _____

☒ Petition Granted Petition under 37CFR 1.84(b)

☐ Petition Denied _____

☐ Petition Dismissed _____

By direction of the Deputy
Assistant Commissioner for Patents

_____

PAULA K. HUTZELL
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

JACK G. CHIRIKJIAN
3939 IVY TERRANCE COURT
WASHINGTON, DC 20007

In re Patent No. 5,776,684	:	
Issue Date: July 7, 1998	:	
Application No. 08/580,253	:	ON PETITION
Filed: December 28, 1995	:	
Patentee(s) Jack G. Chirikjian et al	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 14, 2006 and supplemented on November 1, 2006, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

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A/C P[illegible]NTS

Paper No. 18

BENJAMIN ADLER
GILBRETH AND ADLER
8011 CANDLE LANE
HOUSTON, TX 77071

In re Application of
Steinemann, et al.
Application No. 08/580,384
Filed: May 20, 1996
Attorney Docket No. D5715D

DECISION ON PETITION

This is a decision on the petition filed on September 18, 2000, pursuant to 37 C.F.R. §1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 C.F.R. §1.17(c)) within the time period provided in 37 C.F.R. §1.192(a). The application was previously abandoned for failure to timely reply to a final Office action. A grantable petition to revive under 1.137(b) was filed accompanied by a Notice of Appeal. However, as the appeal brief (and appeal brief fee) was not filed within two months of the decision granting the petition to revive, mailed August 10, 1999, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 C.F.R. § 1.192(b), 1.197(c). As no claim was allowed, the-above-identified application again became abandoned on October 11, 1999. See MPEP 1215.04. A Notice of Abandonment was mailed on May 23, 2000.

With the instant petition, petitioner filed an appeal brief, in triplicate, (and appeal brief fee) and met all other requirements for a grantable petition under 37 C.F.R. §1.137(b). 37 C.F.R. §1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional." The statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application file is being forwarded to Technology Center 1600 for review of the appeal brief by the examiner.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5688329	1997-11-18	08581216	1995-12-29	1617.0002C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Patrick J. Finnan/	Date (YYYY-MM-DD)	2010-01-20
Name	Patrick J. Finnan	Registration Number	39189

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5688329
Issue Date: November 18,1997
Application No. 08581216
Filed: December 29,1995
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT W FLETCHER
10503 TIMBERWOOD CIRCLE
SUITE 114
LOUISVILLE, KY 40223

COPY MAILED

FEB 22 2005

OFFICE OF PETITIONS

In re Application of :
Frank J. Pellegrino, et al. :
Application No. 08/581,992 : ON PETITION
Filed: January 2, 1996 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed December 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. An Advisory action was mailed on July 14, 2004, indicating that the reply filed on March 26, 2004 (Certificate of Mailing dated March 23, 2004) failed to place the application in condition for allowance. Accordingly, the application became abandoned on March 24, 2004.

The filing of the RCE on January 31, 2005, obviates the Notice of Appeal filed with the petition on December 2, 2004. Accordingly, the Notice of Appeal will not be entered.

Since the present RCE was filed without a submission, the unentered amendment filed March 26, 2004 will be considered the submission required under 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being forwarded to Technology Center 3600, Art Unit 3624 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ROBERT W FLETCHER
10503 TIMBERWOOD CIRCLE
SUITE 114
LOUISVILLE KY 40223

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Pellegrino et al.	:	
Application No. 08/581,992	:	DECISION ON PETITION
Filed: 2 January, 1996	:	
For: METHOD FOR DETERMINING THE	:	
RISK ASSOCIATED WITH LICENSING	:	
OR ENFORCING INTELLECTUAL	:	
PROPERTY	:	

This is a decision on the petition filed on 19 June, 2006, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on 18 January, 2006, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

On 19 June, 2006 (certificate of mailing date 16 June, 2006), the present petition was filed, accompanied by a reply to the last Office action.

The non-final Office action mailed on 18 January, 2006, set a three (3) month shortened statutory period, for which extensions of time were available in accordance with 37 CFR 1.136(a). As the reply filed with a certificate of mailing dated 16 June, 2006, was filed two (2) months after the end of the shortened statutory period, said reply is timely with a two (2) month extension of time. The petition is therefore properly treated as a petition for a two (2) month extension of time under 37 CFR 1.136(a).

As such, the application is not abandoned, but rather the reply is considered timely filed with a two month extension of time.

Applicant will be charged $225.00 for a two month extension of time. The balance of the petition fee will be refunded by Treasury Check.

As the application was not abandoned in fact, the petition to revive is unnecessary and will be dismissed as moot.

The application is referred to Technology Center Art Unit 3624 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5809612	1998-09-22	08582188	1996-01-02	1031.01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/makammer34197/	Date (YYYY-MM-DD)	2007-10-10
Name	Mark A. Kammer	Registration Number	34197

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5809612
Issue Date: September 22,1998
Application No. 08582188
Filed: January 2,1996
Attorney Docket No. T-20261.1

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 10,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 10,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 29

SIM & MCBURNEY
SUITE 701
330 UNIVERSITY AVENUE
TORONTO ON M5G 1R7
CANADA

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AUG 1 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Sonia E. Sanhueza et al
Application No. 08/583,124
Filed: June 28, 1996
Attorney Docket No. 1038-566 MIS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 6, 2001, to revive the above-identified application.

The petition is **GRANTED**.

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

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.

The application file is being forwarded to Technology Center 1600.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5672105	1997-09-30	08583894	1996-01-11	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Chris Curic/	Date (YYYY-MM-DD)	2009-12-29
Name	Chris Curic		
Enter Reel and Frame Number		Remove	
Reel Number	000000	Frame Number	0000
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5672105
Issue Date: September 30,1997
Application No. 08583894
Filed: January 11,1996
Attorney Docket No. 6237-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 30,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 30,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6126179	2000-10-03	08584053	1996-01-08	B0932.70024US00

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jason M. Honeyman/	Date (YYYY-MM-DD)	2008-10-29
Name	Jason M. Honeyman	Registration Number	31624

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6126179
Issue Date: October 3,2000
Application No. 08584053
Filed: January 8,1996
Attorney Docket No. B0932/7024

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 29,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5718406	1998-02-17	08584266	1996-01-11	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/chada.grand/	Date (YYYY-MM-DD)	2010-04-22
Name	Chad A. Grand	Registration Number	59209

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5718406
Issue Date: February 17,1998
Application No. 08584266
Filed: January 11,1996
Attorney Docket No. LONG-4.1-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 22,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5651850	1997-07-29	08585306	1996-01-11	94-100

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark D. Elchuk/	Date (YYYY-MM-DD)	2009-12-21
Name	Mark D. Elchuk	Registration Number	33686

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5651850
Issue Date: July 29,1997
Application No. 08585306
Filed: January 11,1996
Attorney Docket No. BOCO18343

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5652959
Issue Date: August 5,1997
Application No. 08585445
Filed: January 16,1996
Attorney Docket No. 13873.2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 30,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5652959	1997-08-05	08585445	1996-01-16	8653.16

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael Krieger/	Date (YYYY-MM-DD)	2010-06-30
Name	Michael F. Krieger	Registration Number	35232

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5690025	1997-11-25	08586405	1996-01-16	Frybarger/TrashReceptacle

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Scott D. Smiley/	Date (YYYY-MM-DD)	2010-03-26
Name	Scott D. Smiley	Registration Number	55627

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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UNITED STATES 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. 5690025
Issue Date: November 25,1997
Application No. 08586405
Filed: January 16,1996
Attorney Docket No. HBL-02

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 26,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5633319	1997-05-27	08587055	1996-01-16	RD24513-6-US-NP

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NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Diderico van Eyl/	Date (YYYY-MM-DD)	2009-08-05
Name	Diderico van Eyl	Registration Number	38641

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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UNITED STATES 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. 5633319
Issue Date: May 27,1997
Application No. 08587055
Filed: January 16,1996
Attorney Docket No. RD-24.513

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Best Available Copy

NOTICE RE CERTIFICATES OF CORRECT 8/15/00

DATE : 06/29/2000 Paper No.: 19

TO : Supervisor, Art Unit 2712

SUBJECT : Certificate of Correction Request in Patent No.: 6,011,585

A response to the following question(s) is requested with respect to the accompanying request for a certificate of correction.

[x] 1. Would the change(s) requested, under 37 C.F.R. 1.323, correcting Applicant/Attorney's (A or Atty.) errors, constitute new matter or require reexamination of the application?

[x] 2. Would the change(s) requested, under 37 C.F.R. 1.323, correcting Applicant/Attorney's (A or Atty.) errors, materially affect the scope or meaning of the claims allowed by the examiner in the patent?

[ ] 3. Applicant disagrees with change(s) initialed and dated by Examiner in lieu of an Examiner's Amendment. Should the change request be granted?

[ ] 4. With respect to the change(s) requested, correcting Office and/or printing (O, Off, C, and/or P) errors, should the patent read as shown in the certificate of correction?

[ ] 5. If the amendment filed _____ had been considered by the Examiner, would the amendment have been entered?

PLEASE RESPOND WITHIN 7 DAYS AND RETURN THE FILE TO PALM LOCATION. 7580, CERTIFICATES OF CORRECTION BR, PARK 3 -918, Thank you

Ernest White

Legal Instrument Examiner
Tel. No. 305-8339

PLEASE CHECK THE BOX(ES) BELOW CORRESPONDING TO THE BOXES CHECKED FOR QUESTION(S) ABOVE AND RETURN FILE TO: PALM LOCATION 7580, CERT. OF CORREC. BR., PK 3 - 918

DATE: 7/14/00

The decision regarding the change(s) requested in the certificate of correction is shown below.

[ ] 1.YES	[✓] NO	[ ] Comments below
[ ] 2.YES	[✓] NO	[ ] Comments below
[ ] 3.YES	[ ] NO	[ ] Comments below
[ ] 4.YES	[ ] NO	[ ] Comments below
[ ] 5.YES	[ ] NO	[ ] Comments below

[ ] Comments _____

ANDREW I. FAILE
SUPERVISORY PATENT EXAMINER
GROUP 2700

Supervisor

2711
Art Unit

PTOL-306 (REV. 10/87) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/ 44 (10-96)
Approved for use through 6/30/99. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,011,585

DATED : January 4,2000

INVENTOR(S) : Eric C. Anderson

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

Column 15, Line 58, delete "the". Off
Column 16, Line 55, after "to" delete "and". Off
Column 17, Line 34, delete "further". Off
Column 18, Line 5, delete "having" and after "matrix" insert --having--. C
Column 19, Line 46, delete "having" and after "matrix" insert --having--. C

MAILING ADDRESS OF SENDER:

Carr & Ferrell LLP
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

PATENT NO. 6,011,585

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

NOV 3 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Patent No. 5,818,845
Issue Date: October 06, 1998
Appl No.: 08/588,378
Filed: January 18, 1996
For: Moura et al.

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed July 27, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Seema S. Rao 11/16/05
Seema S. Rao
Supervisory Patent Examiner
Art Unit 2666
Technology Center 2600

HILL & HUNN, LLP
201 MAIN STREET
SUITE 1440
FORT WORTH, TX 76102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

NOV 3 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DATE: November 16, 2005
TO: Certificates of Correction Branch
FROM: Seema S. Rao
SPE, Art Unit 2666
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 5,818,845 as specified on the attached Certificate.

Seema S. Rao 11/16/05
Seema S. Rao, SPE
Art Unit 2666

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 5,818,845
Patented: October 6,1998

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Eduardo J. Moura, San Jose, CA;
Jan M. Gronski, Palo Alto, CA;
Robert A. Luxenberg, Woodside, CA
Frederick Enns, Menlo Park, CA

Seema S. Rao 11/16/05

Seema S. Rao
Supervisory Patent Examiner
Art Unit 2666

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5857031	1999-01-05	08588625	1996-01-19	95-232-US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Frederick H. Colen/	Date (YYYY-MM-DD)	2008-10-23
Name	Frederick H. Colen	Registration Number	28061

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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UNITED STATES 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. 5857031
Issue Date: January 5,1999
Application No. 08588625
Filed: January 19,1996
Attorney Docket No. 95-232

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed October 23,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 23,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5726734	1998-03-10	08588977	1996-01-19	1025265

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☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
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◉	7 ½ year	(1552)	○	7 ½ year	(2552)
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SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles F Wieland/	Date (YYYY-MM-DD)	2007-05-17
Name	Charles F Wieland III	Registration Number	33096

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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UNITED STATES 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. 5726734
Issue Date: March 10,1998
Application No. 08588977
Filed: January 19,1996
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 17,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 17,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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.
08/590,097	01/24/1996	THIERRY BOON	LUD-5253.3-R	7785

24972 7590 08/01/2006
FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

EXAMINER
GAMBEL, PHILLIP

ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 08/01/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG - 1 2006

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVENUE
NEW YORK, NY 10103-3198

In re Application of	:
Thierry Boon et al	:
Serial No.: 08/590,097	: SUSPENSION OF ACTION
Filed: January 24, 2996	:
Attorney Docket No.: NY-LUD-5253	:

This is in reply to the petition under 37 CFR 1.103(a) to suspend action in this application at applicant's request for a period of six months, filed March 3, 2006.

This is also a response to the letter received June 13, 2006, regarding a letter of Non-Compliant amendment.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office.

Applicants give as a reason for requesting suspension that issues in SN 08/819,669 **may** have a direct bearing on the issues in this application.

It is noted that this is a reissue application. As such the Office is mandated to conduct proceedings and prosecution with special dispatch towards resolution of the proceeding and issuance of a reissue patent, if warranted. For this reason alone suspension should be denied. Further, the reasons given by applicants are mere supposition that the resolution of the appeal in SN 08/819,669 would have a bearing on the issues herein. No specific issues are identified which are common to the two applications or which may have a bearing on the prosecution of this application. Thus no good or sufficient reason has been provided suggesting suspension would be in the interests of the Office or applicants

It is also noted that in applicants' latest reply applicants point out that this application has been pending for over ten years. As to the Notices of Non-Compliant Amendment which have been mailed to applicants – and the apparent confusion caused by different rules for reissue

application amendments - the following is intended to clarify what applicants must do in making amendments in reissue applications:

> Amendment to the specification must be made by replacing an entire paragraph and by showing additions by underlining the added part and deletions by single bracketing the part to be deleted with respect to the original patent specification. (Applicants' specification amendments appear to comply with this.)
>
> Every amendment to the claims also must show additions by underlining and deletions by bracketing **with respect to the original patented claim** (not a previously amended claim). Any newly added claim must be entirely underlined. In reissues, no claims identifiers are required by 37 CFR 1.173(b), however the following are suggested claim identifiers: original, original-amended, canceled, new, and new-amended. The status of all claims **must** be given (and a complete listing of all claims should be provided whenever amendments are made).

Applicants' replies to the Non-Compliant letters have also caused confusion in that the original response (March 3, 2006) only set forth new claims 19-25, properly underlined. The status of all other claims was not given. The reply to the first Non-Compliant letter included a listing of all claims, however new claims 19-25 were now listed as canceled and claims 26-32 were listed as "previously presented", but were not underlined (assuming these were new claims). The second Non-Compliant letter addressed the improper submission of the claim set under 37 CFR 1.121, but failed to note the discrepancy as to what claims were to be under consideration. Applicants' reply received June 13, 2006, asks for clarification as to why the original amendment was improper. As noted above, it failed to give a complete listing and status of all claims, but was otherwise in compliance with 37 CFR 1.173.

In view of the above the petition for suspension of action is **DENIED**.

Applicants are required in response to this decision to submit an amendment showing the status of all claims and which complies with 37 CFR 1.173 within thirty (30) days of the date of mailing hereof. No additional remarks or arguments need be made as the remarks of the previous replies will be fully considered by the examiner upon submission of such compliant amendment.

Should there be any questions with respect to this action, please contact the examiner or William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office general facsimile number, 571-273-8300.

John L. LeGuyader
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5656994
Issue Date: August 12,1997
Application No. 08590350
Filed: January 23,1996
Attorney Docket No. 337

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5656994	1997-08-12	08590350	1996-01-23	8751.2

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☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael Krieger/	Date (YYYY-MM-DD)	2007-01-24
Name	Michael F. Krieger	Registration Number	35232

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,673,975	1997-10-07	08590821	1996-01-24	BCR0002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/J. Ernest Kenney/	Date (YYYY-MM-DD)	2010-07-19
Name	J. Ernest Kenney	Registration Number	19179

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5673975
Issue Date: October 7,1997
Application No. 08590821
Filed: January 24,1996
Attorney Docket No. JEX

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed July 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 19,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,647,429	1997-07-15	08590869	1996-01-24	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sevgin Oktay/	Date (YYYY-MM-DD)	2009-08-27
Name	Sevgin Oktay	Registration Number	47832

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

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UNITED STATES 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. 5647429
Issue Date: July 15,1997
Application No. 08590869
Filed: January 24,1996
Attorney Docket No. OK2-94-001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 27,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5637531	1997-06-10	08591595	1996-02-09	580-002(us)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph Sofer/	Date (YYYY-MM-DD)	2010-06-07
Name	Joseph Sofer, Esq.	Registration Number	34438

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5637531
Issue Date: June 10,1997
Application No. 08591595
Filed: February 9,1996
Attorney Docket No. 580-002(US)

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed June 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 7,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 16

PAUL J. ESATTO
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

COPY MAILED

FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of
Gonzales et al.
Application No. 08/592,977
Filed: January 29, 1996
Attorney Docket No. YO996-006

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 10, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed June 26, 2000. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 27, 2000. A Notice of Abandonment was mailed on March 12, 2001.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional

Petitioner's deposit account will be charged $1330.00 and $330.00 as authorized for payment of the issue fee and Notice of Appeal fee, respectively.

The Notice of Appeal filed February 10, 2004, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The file is now being forwarded to Technology Center 2600 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JJGJr.: 09-02

Paper 19

L JOY GRIEBENOW
ELECTRONIC DATA SYSTEMS CORPORATION
5400 LEGACY DRIVE
H3-3A-05
PLANO TX 75024

COPY MAILED

SEP 3 0 2002

OFFICE OF PETITIONS

In re Application of
Howard, et al. :
Application No. 08/594,563 : ON PETITION
Filed: 31 January, 1996 :
Attorney Docket No.: 43-95-003 (014208.1004) :

This is a decision on the petition (and fee) filed 29 March, 2002, and considered under 37 C.F.R. §1.182[1] to change the name of name of the named inventor (Kathryn A. Rosenthal) to:

Kathryn A. Howard

consistent with the change made by her upon the Divorce Decree of 8 May, 2001, and the adoption by her at that time of the Howard surname.

The petition is **GRANTED**.[2]

After the file--one of the 08 series--first is returned to the Board of Patent Appeals and Interferences for such processing as remains necessary in regard to the Board action of 19 September, 2002:

- next, it is to be forwarded to OIPE for correction to the PALM bib-data sheet and other file wrapper database up-date(s) as necessary;
- thereafter, the file is to be returned to Technology Center 2100 to the attention of the Examiner.

---

[1] The regulations at 37 C.F.R. §1.182 provide:
§ 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in §1.17(h).
[47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[2] Pursuant to Petitioner's authorization, the petition fee ($130.00) is charged to Deposit Account 05-0765.

Petitioner is reminded to submit to the Assignment Division a corrected assignment document and cover sheet--as well as the appropriate fee--as set forth in 37 C.F.R. §1.21(h) for change of the assignment record. See: MPEP 605.04(c).[3]

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[3] The commentary at MPEP §605.04(c) provides:
605.04(c) Inventor Changes Name
In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 C.F.R.§1.182. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order. If the petition is granted, the application should be sent to the Office of Initial Patent Examination (OIPE) for change of name on the file wrapper and in the PALM database, unless the application is an 09/ series application, in which case the application should be sent to the assigned Technology Center (TC) for correction to the PALM bib-data sheet by the TC's technical support staff. If the application is assigned, applicant should submit a corrected assignment document along with a cover sheet and the recording fee as set forth in 37 C.F.R. §1.21(h) to the Assignment Division for a change in the assignment record.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,686,204	1997-11-11	08/594,573	1996-01-31	27860-491

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher M. Goff/	Date (YYYY-MM-DD)	2010-05-14
Name	Christopher M. Goff	Registration Number	41785

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5686204
Issue Date: November 11,1997
Application No. 08594573
Filed: January 31,1996
Attorney Docket No. 780396.90023

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#21

EDWARD F. BEHM, JR.
REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA, PA 19103

COPY MAILED

OCT 26 2006

OFFICE OF PETITIONS

In re Patent No. 5,822,523	:	
Issue Date: October 13, 1998	:	
Application No. 08/595,323	:	NOTICE
Filed: February 1, 1996	:	
Patentee: Jeffrey J. Rothschild, et al.		

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

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

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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Edward F. Behm, Jr. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of Cornelis van der Lely Application No. 08/596360 Filing or 371(c) Date: 03/04/1996 Patent No. 5784994 Issue Date: 07/28/1998 Title of Invention: CONSTRUCTION INCLUDING AN IMPLEMENT FOR AUTOMATICALLY MILKING ANIMALS	: : : : : : : : : :	ON PETITION

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

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

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

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

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 03 2008

OFFICE OF PETITIONS

Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria VA 22314

In re Patent No. 5,615,342
Issue Date: March 25, 1997
Application No. 08/596,575
Filed: February 5, 1996
Attorney Docket No. P62322

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed May 15, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED WITHOUT PREJUDICE.**

In accordance with 37 CFR 1.33(b), amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed. The instant petition was not signed. Therefore, the petition has not been reviewed on the merits.

Any request for reconsideration of this decision should be submitted within TWO MONTHS of the mail date indicated above and should be entitled "Request for Reconsideration under 37 CFR 1.182" and should be properly executed in accordance with 37 CFR 1.33.

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

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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DEC 23 2008

OFFICE OF PETITIONS

Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria VA 22314

In re Patent No. 5,615,342 :
Issue Date: March 25, 1997 :
Application No. 08/596,575 : DECISION ON PETITION
Filed: February 5, 1996 :
Attorney Docket No. P62322 :

This is a decision on the petition under 37 CFR 1.182, filed September 5, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Receipt is hereby acknowledged of the required $400 petition fee.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 119.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

cc: Niomi Farmer
Office of Data Management
Office: 703-308-9250x119
Fax: 571-270-9753

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5577505	1996-11-26	08597697	1996-02-06	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael E Marion/	Date (YYYY-MM-DD)	2009-05-18
Name	Michael E. Marion	Registration Number	32266

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5577505
Issue Date: November 26,1996
Application No. 08597697
Filed: February 6,1996
Attorney Docket No. 10950339-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STAT DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
[illegible]57	02/[illegible]/96	CURRY J	414.013

TM31/1130

MARK UNGERMAN
FULBRIGHT & JAWORSKI L.L.P.
801 PENNSYVANIA AVENUE,N.W.
WASHINGTON DC 20004-2615

EXAMINER
MEI,X

ART UNIT	PAPER NUMBER
2644	21

DATE MAILED: 11/30/00

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

Commissioner of Patents and Trademarks

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 21

MAILED

NOV 14 2000

Technology Center 2600

Mark Ungerman
Fulbright & Jaworski L.L.P.
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2615

In re Application of James E. Curry, et al. Application Serial No. 08/598,457 Filed: February 8, 1996 For: SPATIAL SOUND CONFERENCE SYSTEM AND APPARATUS	))))))	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request to re-mail the Final Office Action mailed December 21, 1999 and to restart the period for response to the Office Action. The request is being treated as a petition to withdraw the holding of abandonment.

This application is considered abandoned for failure to respond in a timely manner to the Final Office Action mailed December 21, 1999. A 'Notice of Abandonment', a letter indicating the status of the application as 'abandoned', has not yet been mailed.

The petitioner asserts that the Office Action was not received. A review of the written record indicates no irregularity in the mailing of the Office Action, and in the absence of any irregularity there is a strong presumption that the Office Action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office Action was not in fact received. The showing must include a statement by the practitioner stating that the Office Action was not received and attesting to the fact that a search of docket records indicates the same. A copy of the docket records must be attached to and referenced by the practitioner's statement. See M.P.E.P. §711.03(c).

The petition, filed June 15, 2000, as supplemented by the referenced docket record, filed June 16, 2000, complies with the above-stated requirements. Accordingly, the application was not abandoned in fact, and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The application has been forwarded to the Technology Center technical support staff to re-mail the Final Office Action mailed December 21, 1999, and to restart the period for response to said action.

James Dwyer, Director
Technology Center 2600
Communications

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	08/598,910	Confirmation No.: 9072
Patent No.	:	5,727,815	
Issued	:	March 17, 1998	
Applicant	:	Bradley Smith	
Title	:	STIFFENING SYSTEM FOR STRUCTURAL MEMBER OF MOTOR VEHICLE FRAME	
Filed	:	February 9, 1996	
TC/A.U.	:	3106	
Docket No.	:	3037-21-00	

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

SUPPLEMENTAL PETITION
(SUPPLEMENTING PETITION TO ACCEPT UNINTENTIONALLY DELAY PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT 37 CFR 1.378(c))

Dear Sir:

It has come to our attention that it may be necessary to submit the credit card form PTO-2038 by fax in the above referenced petition originally submitted on January 2, 2008. It has also come to our attention that there was a typographical error on the fees due with our original petition. The original petition did authorize charging any and all fees to our deposit account in the event of an oversight, which is acceptable to petitioner. However, in the event that charging to a credit card is preferable, petitioner hereby submits the credit card form PTO-2038 in the amount of four-thousand dollars ($4000.00).

Applicants do not believe that any additional fees are associated with this submission. However, if any fees are required, the Commissioner is authorized to charge any deficiencies to Deposit Account No. 500532.

Respectfully submitted,

Sally J. Brown
Reg. No. 37,788
Attorney for Applicant(s)

Date: March 7, 2008

Autoliv ASP, Inc.
3350 Airport Road
Ogden, Utah 84405
Telephone: (801) 625-4994

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,804,453	1998-09-08	08/599,298	1996-02-09	24377-13974

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael W. Farn/	Date (YYYY-MM-DD)	2008-03-07
Name	Michael W. Farn	Registration Number	41015

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5804453
Issue Date: September 8,1998
Application No. 08599298
Filed: February 9,1996
Attorney Docket No. OLYMPUS-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: LOGAN L. PEASE	: DECISION ON REQUEST FOR
Patent Number	: 5759102	: RECALCULATION of PATENT
Issue Date	: 06/02/1998	: TERM ADJUSTMENT IN VIEW
Application No	: 08/600,311	: OF WYETH
Filed	: 02/12/1996	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES 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. VAN GOMPEL ET AL.	:	
Issue Date: 05/14/2002	:	**DECISION GRANTING**
Appl No.: 08/600,317	:	**PETITION**
Filed: February 13, 1996	:	*37 CFR 1.324*
For: SANITARY NAPKIN WITH GARMENT ATTACHEMENT PANELS	:	

This is a decision on the petition filed June 2, 2004 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Tatyana Zalukaeva
Supervisory Patent Examiner
Art Unit 3761
Technology Center 3700

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: August 22, 2005
TO: Certificates of Correction Branch
FROM: Tatyana Zalukaeva
SPE, Art Unit 3761
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,387,084 as specified on the attached Certificate.

Tatyana Zalukaeva, SPE
Art Unit 3761

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,387,084
Patented: 05/14/2002

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Paul Theodore VanGompel, Hortonville, WI
Julie Terese Brocker, Appleton, WI
Lori Sue Schutkoske, Winnecone, WI

Tatyana Zalukaeva
Supervisory Patent Examiner
Art Unit 3761

BRINKS HOFER GILSON & LIONE®

Intellectual Property Law Worldwide

FACSIMILE COVER SHEET

Date: July 26, 2005

To: Tatyana Zalukaeva
Fax No: 571.273.1115

From: Raymond W. Green
Tel. No: 312.321.4222

Client No: 659/289-1

No. of Pages
(inc. this page): 9

Confirmation Copy To Follow: Yes ☐ No ☒

IF YOU HAVE ANY PROBLEMS RECEIVING THIS MESSAGE,
PLEASE CALL 312-321-4200 AND ASK FOR: NANCY MOTT LAWSON, EXT. 4322

THIS MESSAGE IS INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED. IT MAY CONTAIN PRIVILEGED, CONFIDENTIAL, ATTORNEY WORK PRODUCT, OR TRADE SECRET INFORMATION WHICH IS EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF YOU ARE NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE (AND ALL COPIES) TO US BY MAIL AT THE ABOVE ADDRESS. WE WILL REIMBURSE YOU FOR POSTAGE.

COVER MESSAGE:

Re: Serial No. 08/600,317
Now U.S. Patent No. 6,387,084 B1 - Paul T. Van Gompel et al.

Dear Ms. Zalukaeva:

The attached documents are per our discussion.

Thank you.

Raymond W. Green

NBC Tower – Suite 3600 | 455 N. Cityfront Plaza Drive | Chicago, IL 60611-5599 | Telephone 312.321.4200 | Fax 312.321.4299 | usebrinks.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: MAIL STOP POST ISSUE, COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450, on June 2, 2004.

RAYMOND W. GREEN
Registered Representative

Signature

Date of Signature: June 2, 2004

PATENT
BHG&L Case 659/289-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Paul T. Van Gompel et al.	K-C Docket 9733.4
Serial No.:	08/600,317	Confirmation No. 1923
Filed:	February 13, 1996	Group Art Unit: 3761
For:	SANITARY NAPKIN WITH GARMENT ATTACHMENT PANELS	Examiner: Dennis Ruhl
Now U.S. Patent 6,387,084 B1		
Issued May 14, 2002		

PETITION UNDER 37 CFR 1.324(a) TO DELETE INVENTOR

MAIL STOP POST ISSUE
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

U.S. Patent 6,387,084 B1 issued May 14, 2002, in the names of Paul Theodore Van Gompel, Julie Terese Brocker, Lori Sue Schutkoske and Betsy Carolyn Westlake.

After issue, it was discovered that Betsy C. Westlake did not make an inventive contribution to any of the issued claims of U.S. Patent 6,387,084 B1, and that she was retained as

PAGE 2/9 * RCVD AT 7/26/2005 11:39:50 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2731115 * CSID:13123214299 * DURATION (mm-ss):01-46

an inventor through error, after the claims to which she had contributed were cancelled. The error arose without any deceptive intention.

Accordingly, pursuant to 35 USC 256, 37 CFR 1.324(a) and MPEP 1481, this is a petition to delete Betsy Carolyn Westlake as an inventor from U.S. Patent 6,387,084 B1.

Accompanying this Petition, as required by 37 CFR 1.324(b), are:

(1) three documents entitled CONSENT ... TO DELETE INVENTOR under 37 CFR 1.324(b)(2), signed by each of Paul T. Van Gompel, Julie T. Brocker and Lori S. Schutkoske, respectively, stating that they have no disagreement in regard to the requested change;

(2) a CONSENT BY BETSY C. WESTLAKE TO DELETION AS INVENTOR under 37 CFR 1.324(b)(2), signed by Betsy C. Westlake, stating that she has no disagreement in regard to the requested change;

(3) a CONSENT BY ASSIGNEE TO DELETE INVENTOR under 37 CFR 1.324(b)(3), signed by Thomas J. Mielke, Vice President of the Assignee, Kimberly-Clark Worldwide, Inc., agreeing to the change of inventorship in the patent, and

(4) a check for $130.00, the current fee under 37 CFR 1.324(b)(4) and 37 CFR 1.20(b) for correcting inventorship in a patent.

Respectfully submitted,

Raymond W. Green
Registration No. 24,587

BRINKS HOFER GILSON & LIONE
P. O. Box 10395
Chicago, Illinois 60610
312-321-4222

June 2, 2004

PAGE 3/9 * RCVD AT 7/26/2005 11:39:50 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2731115 * CSID:13123214299 * DURATION (mm-ss):01-46

PATENT
BHG&L Case 659/289-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Paul T. Van Gompel et al.	:	K-C Docket 9733.4
Serial No.:	08/600,317	:	Confirmation No. 1923
Filed:	February 13, 1996	:	Group Art Unit: 3761
For:	SANITARY NAPKIN WITH GARMENT ATTACHMENT PANELS	:	Examiner: Dennis Ruhl
Now U.S. Patent 6,387,084 B1		:	
Issued May 14, 2002		:	

CONSENT BY PAUL T. VAN GOMPEL TO DELETE INVENTOR

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PAUL T. VAN GOMPEL states as follows:

I am a named inventor on this Patent, along with Julie T. Brocker, Lori S. Schutkoske and Betsy C. Westlake. After issuance of the Patent, it was brought to my attention that Betsy C. Westlake did not make an inventive contribution to any of the issued claims; that she was retained as an inventor through error, after the claims to which she had contributed were cancelled; and that it was proposed to delete Betsy C. Westlake as an inventor in this Patent.

I have no disagreement in regard to the requested change to delete Betsy C. Westlake as an inventor in this Patent.

May 18, 2004

Paul T. Van Gompel
PAUL T. VAN GOMPEL

PATENT
BHG&L Case 659/289-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Paul T. Van Gompel et al.	:	K-C Docket 9733.4
Serial No.:	08/600,317	:	Confirmation No. 1923
Filed:	February 13, 1996	:	Group Art Unit: 3761
For:	SANITARY NAPKIN WITH GARMENT ATTACHMENT PANELS	:	Examiner: Dennis Ruhl
Now U.S. Patent 6,387,084 B1		:	
Issued May 14, 2002		:	

CONSENT BY JULIE T. BROCKER TO DELETE INVENTOR

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

JULIE T. BROCKER states as follows:

I am a named inventor on this Patent, along with Paul T. Van Gompel, Lori S. Schutkoske and Betsy C. Westlake. After issuance of the Patent, it was brought to my attention that Betsy C. Westlake did not make an inventive contribution to any of the issued claims; that she was retained as an inventor through error, after the claims to which she had contributed were cancelled; and that it was proposed to delete Betsy C. Westlake as an inventor in this Patent.

I have no disagreement in regard to the requested change to delete Betsy C. Westlake as an inventor in this Patent.

May 18, 2004

Julie T. Brocker
JULIE T. BROCKER

PATENT
BHG&L Case 659/289-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Paul T. Van Gompel et al.	:	K-C Docket 9733.4
Serial No.:	08/600,317	:	Confirmation No. 1923
Filed:	February 13, 1996	:	Group Art Unit: 3761
For:	SANITARY NAPKIN WITH GARMENT ATTACHMENT PANELS	:	Examiner: Dennis Ruhl
Now U.S. Patent 6,387,084 B1		:	
Issued May 14, 2002		:	

CONSENT BY LORI S. SCHUTKOSKE TO DELETE INVENTOR

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

LORI S. SCHUTKOSKE states as follows:

I am a named inventor on this Patent, along with Paul T. Van Gompel, Julie T. Brocker and Betsy C. Westlake. After issuance of the Patent, it was brought to my attention that Betsy C. Westlake did not make an inventive contribution to any of the issued claims; that she was retained as an inventor through error, after the claims to which she had contributed were cancelled; and that it was proposed to delete Betsy C. Westlake as an inventor in this Patent.

I have no disagreement in regard to the requested change to delete Betsy C. Westlake as an inventor in this Patent.

May 25, 2004

Lori S. Schutkoske
LORI S. SCHUTKOSKE

PATENT
BHG&L Case 659/289-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Paul T. Van Gompel et al.	:	K-C Docket 9733.4
Serial No.:	08/600,317	:	Confirmation No. 1923
Filed:	February 13, 1996	:	Group Art Unit: 3761
For:	SANITARY NAPKIN WITH GARMENT ATTACHMENT PANELS	:	Examiner: Dennis Ruhl
Now U.S. Patent 6,387,084 B1		:	
Issued May 14, 2002		:	

CONSENT BY BETSY C. WESTLAKE TO DELETION AS INVENTOR

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

BETSY C. WESTLAKE states as follows:

I am a named inventor on this Patent, along with Paul T. Van Gompel, Julie T. Brocker and Lori S. Schutkoske. After issuance of the Patent, I reviewed the issued claims and concluded that I did not make an inventive contribution to any of the issued claims; and that I was retained as an inventor through error, after the claims to which I had contributed were cancelled. The error arose without any deceptive intention on my part. I understand that it is proposed to delete me as an inventor in this Patent.

I have no disagreement in regard to the requested change to delete me as an inventor in this Patent.

May 17, 2004

Betsy C. Westlake
BETSY C. WESTLAKE

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PATENT
BHG&L Case 659/289-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Paul T. Van Gompel et al.	:	K-C Docket 9733.4
Serial No.:	08/600,317	:	Confirmation No. 1923
Filed:	February 13, 1996	:	Group Art Unit: 3761
For:	SANITARY NAPKIN WITH GARMENT ATTACHMENT PANELS	:	Examiner: Dennis Ruhl
Now U.S. Patent 6,387,084 B1		:	
Issued May 14, 2002		:	

CONSENT BY ASSIGNEE TO DELETE INVENTOR

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

THOMAS J. MIELKE states as follows:

STATEMENT OF OWNERSHIP

KIMBERLY-CLARK WORLDWIDE, INC. is the assignee of the entire right, title and interest in this Patent 6,387,084 B1, by virtue of assignments (1) from the inventors Van Gompel et al. to KIMBERLY-CLARK CORPORATION, recorded on September 30, 1992, at reel 6278, frames 199-201; and (2) from KIMBERLY-CLARK CORPORATION to KIMBERLY-CLARK WORLDWIDE, INC., recorded on April 21, 1997, at reel 8519, frames 919 and following.

STATEMENT OF AUTHORITY

I am Vice President of the Assignee, Kimberly-Clark Worldwide, Inc., and I am authorized to act on behalf of Kimberly-Clark Worldwide, Inc.

STATEMENT OF FACTS

Paul T. Van Gompel, Julie T. Brocker, Lori S. Schutkoske and Betsy C. Westlake are named inventors on this Patent. After issuance of the Patent, it was brought to my attention that Betsy C. Westlake did not make an inventive contribution to any of the issued claims; that she was retained as an inventor through error, after the claims to which she had contributed were cancelled; and that it was proposed to delete Betsy C. Westlake as an inventor in this Patent.

CONSENT TO DELETION OF INVENTOR

Kimberly-Clark Worldwide, Inc. agrees to the proposed change to delete Betsy C. Westlake as an inventor in this Patent.

KIMBERLY-CLARK WORLDWIDE, INC.

By_____
THOMAS J. MIELKE
VICE PRESIDENT

May 26, 2004

PAGE 9/9 * RCVD AT 7/26/2005 11:39:50 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2731115 * CSID:13123214299 * DURATION (mm-ss):01-46

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MERIX BIOSCIENCE, INC.
4233 TECHNOLOGY DRIVE
DURHAM NC 27704

MAILED

MAR 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Steinman et al.	:	
Application No. 08/600,483	:	ON PETITION
Filed: February 12, 1996	:	
Attorney Docket No. ARG011	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 1644 processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5669333	1997-09-23	08600616	1996-02-13	Case 5682

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/emarich/	Date (YYYY-MM-DD)	2009-10-16
Name	Eric Marich	Registration Number	32265

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5669333
Issue Date: September 23,1997
Application No. 08600616
Filed: February 13,1996
Attorney Docket No. 5682

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: LOGAN L. PEASE	: DECISION ON REQUEST FOR
Patent Number	: 5766076	: RECALCULATION of PATENT
Issue Date	: 06/16/1998	: TERM ADJUSTMENT IN VIEW
Application No	: 08/600,670	: OF WYETH
Filed	: 02/13/1996	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,822,606	1998-10-13	08602220	1996-02-16	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Steven G. Morton/	Date (YYYY-MM-DD)	2007-11-01
Name	Steven G. Morton		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5822606
Issue Date: October 13,1998
Application No. 08602220
Filed: February 16,1996
Attorney Docket No. OXF9601

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed November 1,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 1,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

PAPER NO. 63

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
1300 I STREET, NW
WASHINGTON DC 20005

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SEP 1 0 2003

OFFICE OF PETITIONS

In re Application of
Abbas Scharif-Afschar, et al.
Application No. 08/603,179
Filed: February 20, 1996
Attorney Docket No. 03806.0055-0

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on September 8, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 7, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 1651 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEVIN K. JOHANSON
TRASKBRITT PC
P O BOX 2550
SALT LAKE CITY, UT 84110

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JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of
Brent Keeth et al
Application No. 08/603,471
Filed: February 20, 1996
Attorney Docket No. 5990.1US

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 27, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No.31

JAMES C LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VIRGINIA 22314

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MAY 23 2003

OFFICE OF PETITIONS

In re Application of
MORINI et al.
Application No. 08/603,497
Filed: February 20, 1996
Attorney Docket No. US-12001+1+2+3

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed March 20, 2003.

The petition under 37 CFR 1.137(b) is granted.

As correctly noted in the petition this application became abandoned at midnight on April 28, 2002, for failure to appropriately reply within the meaning of 37 CFR 1.196(b) to the new ground of rejection set forth in the decision of the Board of Patent Interferences of February 28, 2002, as there were no allowed claims. As such, the subsequent proceedings before the Court of Appeals for the Federal Circuit (Fed. Cir.) did not operate to remove this application from the jurisdiction of the USPTO to revive this application. See In re Bryan, 2 USPQ2d 1215, 1216 (Comm'r Pat. 1986). In any event, petitioner's favorably considered motion before the Fed. Cir. to return jurisdiction to the USPTO has the same force and effect as if jurisdiction had never left the USPTO. Cf. MPEP 1216.01, Section D.

The petition includes an amendment and showing of facts so as to have the matter reconsidered by the examiner within the meaning of 37 CFR 1.196(b)(1). Accordingly, on petition, applicant's unintentional delay in submitting the proper reply to decision of February 29, 2002, is excused.

This application is being returned to Technology Center AU 1713 for the examiner's consideration of the amendment filed March 20, 2003, under the provisions of 37 CFR 1.196(b)(1).

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOANNE L HORN
MONTELL NORTH AMERICA INC
LAW DEPARTMENT
P O BOX 15439
WILMINGTON, DE 19850-5439

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JUN 17 2005

OFFICE OF PETITIONS

In re Application of :
Giampiero Morini, et al. :
Application No. 08/603,497 :
Filed: February 20, 1996 :
Attorney Docket No. US-12001+2+3 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 13, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 14, 2004.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34, the signature of William R. Reid appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. If Mr. Reid desires to receive future correspondence regarding this application, an appropriate power of attorney or authorization of agent must be submitted.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: William R. Reid
Basell USA Inc.
912 Appleton Road
Elkton, MD 21921

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOANNE L HORN
MONTELL NORTH AMERICA INC
LAW DEPARTMENT
P O BOX 15439
WILMINGTON, DE 19850-5439

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JUL 1 3 2005

OFFICE OF PETITIONS

In re Application of :
Giampiero Morini et al :
Application No. 08/603,497 : ON PETITION
Filed: February 20, 1996 :
Attorney Docket No. US-12001+2+3 :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed July 12, 2005, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

This matter is being referred to Technology Center AU 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5700359	1997-12-23	08604027	1996-02-20	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2010-05-10
Name	Benoit Castel	Registration Number	35041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5700359
Issue Date: December 23,1997
Application No. 08604027
Filed: February 20,1996
Attorney Docket No. OBF-12198

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 10,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6594471	2003-07-15	08604105	1996-02-20	Ant-cip-2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Donald N. Halgren/	Date (YYYY-MM-DD)	2007-09-05
Name	Donald N. Halgren	Registration Number	27056

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6594471
Issue Date: July 15,2003
Application No. 08604105
Filed: February 20,1996
Attorney Docket No. ANT-CIP-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 5,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 5,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6259572	2001-07-10	08604340	1996-02-21	RLI-P10-Rev

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/joshua s. broitman/	Date (YYYY-MM-DD)	2010-06-28
Name	Joshua S. Broitman	Registration Number	38006

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6259572
Issue Date: July 10,2001
Application No. 08604340
Filed: February 21,1996
Attorney Docket No. 112-157

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 28,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 28,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,856,313	1999-01-05	08604367	1996-02-21	P/189-94 (V7192)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/robert c faber/	Date (YYYY-MM-DD)	2008-03-18
Name	Robert C. Faber	Registration Number	24322

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5856313
Issue Date: January 5,1999
Application No. 08604367
Filed: February 21,1996
Attorney Docket No. P/189-94

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 18,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 18,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5857732
Issue Date: January 12,1999
Application No. 08604586
Filed: February 21,1996
Attorney Docket No. 2872L-00356

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5857732	1999-01-12	08604586	1996-02-21	CSP-12802/38

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Avery N. Goldstein/	Date (YYYY-MM-DD)	2007-07-24
Name	Avery N. Goldstein	Registration Number	39204

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5664446	1997-09-09	08605523	1996-02-26	192-3.JHK

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John G Kusmiss/	Date (YYYY-MM-DD)	2010-01-21
Name	John G Kusmiss	Registration Number	32149

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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UNITED STATES 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. 5664446
Issue Date: September 9,1997
Application No. 08605523
Filed: February 26,1996
Attorney Docket No. 192-3.JHK

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 21,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,245,349	2001-06-12	08/606,405	1996-02-23	034074.01016

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sarah Klosek/	Date (YYYY-MM-DD)	2009-09-02
Name	Sarah Klosek	Registration Number	55332

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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Commissioner for Patents
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www.uspto.gov

In re Patent No. 6245349
Issue Date: June 12,2001
Application No. 08606405
Filed: February 23,1996
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5940486	1999-08-17	08607437	1996-02-27	04064/800G055-000 (New)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David Leason/	Date (YYYY-MM-DD)	2007-10-12
Name	David Leason	Registration Number	36195

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5940486
Issue Date: August 17,1999
Application No. 08607437
Filed: February 27,1996
Attorney Docket No. 1584/4

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 12,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5735307	1998-04-07	08607818	1996-02-27	13082-29

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
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○	7 ½ year	(1552)	○	7 ½ year	(2552)
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SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/JamesRaakman/	Date (YYYY-MM-DD)	2010-04-22
Name	James A. Raakman	Registration Number	56624

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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UNITED STATES 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. 5735307
Issue Date: April 7,1998
Application No. 08607818
Filed: February 27,1996
Attorney Docket No. 21562.0002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 23,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 23,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : June 20, 2007
Serial No. : 08/607903
Patent No. :5,876,453
Patent Issued :March 2, 1999
Inventor(s) :Keith D. Beaty
Title :IMPLANT SURFACE PREPARATION

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Respecting the alleged error noted in your request for a re-consideration. The proposed change would not be in agreement with the language of the May 28, 1996 amendment and would not read properly in connection with the language of the patent on the line there following; column 1, line 6.

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

Magdalene Talley
For Cecelia B. Newman, Supervisor
Decisions and Certificate
Of Correction Branch
(703) 308-9390 ext. 116
FAX 571-270-9942

Jenkins & Gilchrist
225 West Washington, Ste. 2600
Chicago, IL 60606

CBN/mt

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6033286	2000-03-07	08608533	1996-02-28	

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SMALL ENTITY
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NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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STATEMENT
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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Glenn David Langlinais/	Date (YYYY-MM-DD)	2010-02-16
Name	Glenn David Langlinais		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6033286
Issue Date: March 7,2000
Application No. 08608533
Filed: February 28,1996
Attorney Docket No. 218582

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,672,809	1997-09-30	08/608,672	1996-02-29	P09,0337

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LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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NOT Small Entity		Small Entity	
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SURCHARGE

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Richard A. Brandt/	Date (YYYY-MM-DD)	2009-11-25
Name	Richard A. Brandt		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5672809
Issue Date: September 30,1997
Application No. 08608672
Filed: February 29,1996
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 25,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 25,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/01/09

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 08608867 Patent No.: 5734802

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

2625

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-03-08

TO SPE OF : ART UNIT 2889

SUBJECT : Request for Certificate of Correction for Appl. No.: **08/609354** Patent No.: **6825596**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

Insertions of (1) a limitation within abstract and (2) insertions and deletions of several terms in claims 5-8 would require further consideration.

/Ashok Patel/ Ashok Patel for SPE Minh-Toan Ton — **SPE**

2889 — **Art Unit**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5797217	1998-08-25	08609534	1996-03-01	24M09.1-010

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Lawrence A. Villanueva/	Date (YYYY-MM-DD)	2008-08-11
Name	Lawrence A. Villanueva	Registration Number	43968

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5797217
Issue Date: August 25,1998
Application No. 08609534
Filed: March 1,1996
Attorney Docket No. BET100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6009400	1999-12-28	08611053	1996-03-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alan ISRAEL/	Date (YYYY-MM-DD)	2009-10-21
Name	Alan ISRAEL	Registration Number	27564

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6009400
Issue Date: December 28,1999
Application No. 08611053
Filed: March 5,1996
Attorney Docket No. BLACKMAN

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed October 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/7/09

TO SPE OF : ART UNIT 2856 Saint Surin Jacques

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/611198 Patent No.: 7394858

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — 2856 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 9

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OFFICE OF PETITIONS

DANIEL J MEANEY JR
P O BOX 22307
SANTA BARBARA CA 93121

In re Application of
Franziska Shepard
Application No. 08/611,642
Patent No. 5,704,371
Filed: March 6, 1996
Issue Date: January 6, 1998
Attorney Docket Number: 5483-413416/
Title: MEDICAL HISTORY DOCUMENTATION SYSTEM AND METHOD

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed on June 6, 2002, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued on January 6, 1998. The grace period for paying the 3 ½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on January 6, 2002, with no payment received.

This petition was timely filed within twenty-four months after the expiration of the six-month grace period. As required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

This file is being returned to Files Repository.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 19 2008

DANIEL J. MEANEY, JR.
P.O. BOX 22307
SANTA BARBARA, CA 93121

In re Patent No. 5,704,371	:	
Issue Date: January 6, 1998	:	
Application No. 08/611,642	:	ON PETITION
Filed: March 6, 1996	:	
Patentee(s): Franziska Shepard	:	

This is a decision on the petition, filed June 27, 2007, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is GRANTED.

The patent issued January 6, 1998. The grace period for paying the second maintenance fee expired on January 7, 2006. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

This file is being forwarded to Files Repository.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

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OCT 0 6 2008

Integrated Silicon Solution, Inc.
1940 Zanker Road
San Jose CA 95112

Paper No. 19

In re Patent No. 5,808,959
Issue Date: September 7, 1996
Application No. 08/612,044
Filed: August 7, 1996
Attorney Docket No. ALNC01500

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.182, filed September 11, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The petition for issuance of duplicate letters patent filed July 14, 2008 was dismissed for failure to provide a statement under 37 CFR 3.73(b) for the person who signed the petition, Lou Yang. The renewed petition includes a proper 3.73(b) statement authorizing Lou Zang to sign on behalf of the assignee.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige in the Publishing Division at (703) 308-9250, Ext. 139.

A copy of this decision is being faxed to Publishing Division for issuance of a duplicate Letters Patent.

David Bucci
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 38

COPY MAILED

SEP 25 2001

OFFICE OF PETITIONS

ON PETITION

APPLIED ELASTOMERICS INC.
1336 ODDSTAD BLVD
PACIFICA , CA 94044

In re Application of:
CHEN, JOHN Y
Application No. 08/612,586
Filed: 03/08/1996
Attorney Docket No. 22

This is a decision on the April 3, 2001 petition under 37 C.F.R. §1.137(b) to revive the above-identified application from an abandoned status.

This application became abandoned for failure to timely reply to the final office action mailed on July 18, 2000. The period for replying was set at three (3) months.[1]

Petitioner attempted a response on February 21, 2001. However, that was past the deadline for replying. Accordingly, the application lapsed into an abandoned state as of October 18, 2000.[2]

The examiner has agreed to enter in part the response filed with this petition. Specifically, claims 13-21 will be canceled, amendments to claims 2, 3, 4, 7, 9, and 11 will be entered, and claims 1-12 will be entered. The application will thus be in condition for allowance, thus satisfying the requirement of a proper reply under 37 C.F.R. §1.137(b)(1). Therefore, *this petition is* ***granted***.

This application will be forwarded to the Publications Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] See Paper No. 5

[2] 35 U.S.C. §133, 37 C.F.R. §1.134-136.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5824611	1998-10-20	08613293	1996-03-11	Eyler

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Keith C. Cramer/	Date (YYYY-MM-DD)	2006-11-10
Name	Keith C. Cramer	Registration Number	46647

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5824611
Issue Date: October 20,1998
Application No. 08613293
Filed: March 11,1996
Attorney Docket No. P-12585II

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed November 10,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 10,2006. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Patent No. 6,054,429	:	
Issue Date: April 25, 2000	:	
Application No. 08/613,400	:	NOTICE
Filed: March 8, 1996	:	
Attorney Docket No. 20829.0004.NPUS00	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 22, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5623433	1997-04-22	08613600	1996-03-11	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/JAIME H. REDIN/	Date (YYYY-MM-DD)	2009-06-01
Name	JAIME H. REDIN		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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UNITED STATES 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. 5623433
Issue Date: April 22,1997
Application No. 08613600
Filed: March 11,1996
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 1,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 1,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 32

MAIL

OCT 17 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Mr. John J. Torrente
ROBIN BLECKER & DALEY
330 MADISON AVENUE
NEW YORK, NY 10017

In re Application of:
Hiroto Ohkawara
Application No. 08/615,494
Filed: March 12, 1996
For: IMAGE PICKUP APPARATUS

DECISION ON PETITION

This is in response to the petition filed September 10,2002 to Reissue Office Action or to Issue a New Office Action, or if that petition is not granted to treat it as a Notice of Appeal and Petition for Extension of Time. The petition is being treated as a petition to withdraw the holding of abandonment of the above-identified application.

This application is in abandoned status for failure to respond in a timely matter to the Final Rejection mailed on March 11, 2002. A Notice of Abandonment has not yet been mailed.

Petitioner asserts that the Office action mailed March 11, 2002 was not received. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the applicant at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not received," 1156 O.G. 53 (November 16, 1993). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

An adequate showing under M.P.E.P. § 711.03(c) requires a statement from the practitioner stating that the Office Action was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. In support of the petition, the petitioner has submitted copies of the Actions Due Report for the period covering June 11, 2002 and states that the original Final Office Action is not in the applicant's undersigned attorney's file. The statements made and signed by the practitioner are considered to be sufficient for the required showing of nonreceipt of the Office action.

A review of the record of the instant application finds that the Final Action bears a slightly different address than the correspondence address of record, inasmuch as it includes "2nd Floor" in the address. It is unclear if this improper inclusion resulted in applicant's failure to receive the Office action. In view of applicant's showing of non-receipt of the Office action and in view of an apparent irregularity in the mailing of the Final Office Action, the application is not abandoned in fact. The Office sincerely apologizes for this inconvenience.

The petition is **GRANTED**.

The application file is being forwarded to the TC 2600 technical support staff for remailing the March 11, 2002 Final Office Action to the correct correspondence address of record. The time period for response will be set to run from the date of the new mailing.

Joseph J. Rolla, Jr., Director
Technology Center 2600
Communications

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,107,497	2000-08-22	08/616,466	1996-03-19	59505.830005.US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael R. Henson/	Date (YYYY-MM-DD)	2010-02-16
Name	Michael R. Henson	Registration Number	39222

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6107497
Issue Date: August 22,2000
Application No. 08616466
Filed: March 19,1996
Attorney Docket No. DN-1578

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 23

LARRY J. MOSKOWITZ
DICKINSON WRIGHT PLLC
1901 L STREET, N.W., SUITE 800
WASHINGTON, DC 20036

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JUL 07 2004

OFFICE OF PETITIONS

In re Application of :
Milton B. Hollander et al :
Application No. 08/617,265 :
Filed: March 18, 1996 :
Attorney Docket No. OE003USQ1

NOTICE

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to the Files Repository.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 12 2007

OFFICE OF PETITIONS

WILLIAM A. DRUCKER
C/O JAY M. CANTOR
1299 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004-2400

In re Patent No. 5,727,880 :
Issue Date: March 17, 1998 :
Application No. 08/617,265 : ON PETITION
Filed: March 18, 1996 :
Attorney Docket No. OE003USQ1 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 10, 2007, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 18, 2006 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

The patent file is being forwarded to Files Repository.

David Bucci
Petitions Examiner
Office of Petitions

Cc: John M. Naber
Dickinson Wright PLLC
1901 L St., N.W.
Suite 800
Washington, D.C. 20036

UNITED STATES 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. 5751189
Issue Date: May 12,1998
Application No. 08617313
Filed: March 18,1996
Attorney Docket No. 4320P027

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 29,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 29,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,751,189	1998-05-12	08/617,313	1996-03-18	4320P027

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
◉ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Cory G. Claassen/	Date (YYYY-MM-DD)	2010-06-29
Name	Cory G. Claassen	Registration Number	50296

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6228610	2001-05-08	08617785	1996-03-19	4-19679/A/PC

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2009-10-26
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6228610
Issue Date: May 8,2001
Application No. 08617785
Filed: March 19,1996
Attorney Docket No. 4-19679/A/PC

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 26,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 26,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAR 30 2009

OFFICE OF PETITIONS

Herbert Dunn
39 Zebra Lane
Berkeley Springs, West Virginia 25411

In re Patent No. 5.833,014 :
Issue Date: November 10, 1998 :
Application No. 08/619,254 :
Filed: March 18, 1996 :
For: Reciprocating Tool Handle :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(b), filed May 4, 2007, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts, as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

The patent issued November 10, 1998. The 7.5 year (second) maintenance fee could have been paid from November 10, 2005 through May 9, 2006 or with a surcharge during the period from May 10, 2006 through November 10, 2006. Accordingly, the patent expired on November 11, 2006, for failure to timely submit the 7.5 year maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

A petition under 37 CFR 1.378(b) for the acceptance of an unavoidably delayed payment of maintenance fee is considered under the same standard as that for reviving an application

unavoidably abandoned under 37 CFR 1.137(a) because 35 U.S.C. § 41(c)(1) uses the identical language, *i.e.*, "unavoidable" delay.[2] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[3] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[4] Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[5]

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[6] However, "the question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case by case basis, taking all of the facts and circumstances into account".[7] Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.[8] The statue requires a "showing" by petitioner. Therefore, petitioner has the burden of proof.

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. [9]

---

[2] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful man in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[4] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute unavoidable delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. Lexis 23119, 13 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs through their counsel's actions or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications).

[5] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[6] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee...at any time...if the delay is shown to the *satisfaction of the Commissioner* to have been unavoidable (emphasis added).

[7] Smith v. Mossinghoff, 671 F.2d at 533.

[8] Id. at 538.

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

PETITIONER'S ARGUMENT

- Petitioner Herbert Dunn, the sole patentee, states the maintenance fee was not timely submitted because he was ill with lung and kidney problems.
- Petitioner states that all of the mail regarding the patent was mailed to patent agent, Peter Gibson.
- Agent Gibson has not contacted him or forwarded fee notices.
- Upon an improvement of petitioner's health, he contacted Peter Gibson and discovered that the number had been disconnected.
- Petitioner discovered that the patent was expired on April 28, 2007.
- Petitioner insists that had he not been ill, the maintenance fee would have been timely paid.

APPLICATION OF THE UNAVOIDABLE STANDARD

Petitioner's arguments have been considered but are not persuasive. In general a grantable petition under 37 CFR 1.378 (b) must show 1) petitioner knew of the need to make the maintenance fee payment, 2) implemented a reliable docketing system to track the relevant dates 3) treated the payment of the maintenance fee (and later the filing of a petition to reinstate) as his most important business 4) was prevented from making the payment and 5) must show the entire delay in making the payment and submitting a grantable petition was unavoidable.

In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due. In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra.

The petition does not demonstrate that petitioner Dunn maintained a tracking system. To the extent petitioner contends he relied upon a system maintained by Agent Gibson, no information has been provided to establish what if any system utilized by Agent Gibson.

It is solely the responsibility of the patentee to ensure that the maintenance fee is paid timely to prevent expiration of the patent. The Office looks to the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant/patentee and their successors, and the applicant/patentee and their successors are bound by the consequences of those actions or inactions. Link v. Wabash,370 U.S. 626, 633-34 1962). Failure to monitor the status of a patent does not reflect the due care and diligence employed by a prudent and careful person with respect to their most important business and as such cannot demonstrate that the delay was unavoidable delay. A petitioner who is treating his patent as his most important business would have attempted to contact agent Gibson to ensure that appropriate action had been taken on petitioner's behalf. If it was determined agent Gibson had not handled the application as petitioner desired, it is then petitioner's responsibility to either timely seek other counsel or submit the maintenance fee on petitioner's own behalf. Petitioner has failed to provide any evidence that it was agent Gibson's duty to inform petitioner of the due date of the maintenance fee. The record lacks any showing that the attorney or any firm associated with this patent ever represented to petitioner that the maintenance fee had been paid, much less that petitioner ever paid the attorney for services rendered with respect to the maintenance fee payment.

In the absence of a showing that any steps had been taken, then 37 CFR 1.378(b) precludes acceptance of the payment. In other words, if no steps were taken by either petitioner or agent Gibson there after to track the fee payment, then the concurrent and subsequent health problems of petitioner would be immaterial to the delay. The showing must be that when the system indicated the fee fell due, the health problems of petitioner was "unavoidably" prevented from taking any earlier action with respect to this patent.

It is noted that petitioner insists that he could not pay the maintenance fee due to illness. However, no evidence has been provided to support the facts alleged. Petitioner has failed to provide any evidence to establish that petitioner suffered illness, which rendered him incapable of timely submitting the maintenance fee payment. Such a showing must be supported by medical records, a statement from petitioner's treating physician, and such statement must provide the nature of petitioner's incapacitation during the above-mentioned period. Petitioner should also supply the dates petitioner remained in the hospital. Petitioner should discuss whether petitioner was able to pay bills during this time such as rent, mortgage, insurance and utilities.

Further, that one may be preoccupied with other matters, as harsh as that may seem, does not excuse the delay in payment of a maintenance fee. The issue is solely whether the maintenance, or reinstatement, of the patent at issue was actually conducted with the care or diligence that is generally used and observed by prudent and careful persons in relation to their most important business.

Ultimately, petitioner argues that the failure to submit the maintenance fee was due to the failure to communicate with agent Gibson. It is well established that a failure to communicate between

a client and an attorney is not unavoidable delay In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988) A delay resulting from an attorney's preoccupation with other legal matters or with the attorney's inadvertence or mistake is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 USC 151 and 37 CFR 1.378 Mossinghoff, 671 F.2d at 536. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).

Accordingly, the facts presented do not allow for a finding of unavoidable delay.

When filing documentation in support of applications or petitions, please take steps to protect all personal information. "Personal information" includes social security, credit card and banking account numbers. This type of personal data is never required by the USPTO to support a petition or application. To protect your privacy, we suggest that you delete such information from any documentation you send the office.

Petitioner's current options

I. Petitioner may file a request for reconsideration.

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the $400 petition fee set forth in §1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Accordingly, on request for reconsideration, it is extremely important the petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may a request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Commissioner for Patents, P.O. Box 1450,Alexandria, VA 22313. A copy of this decision should accompany petitioner's request.

III. Petitioner may wish to file a petition under 37 CFR 1.378(c).

Petitioner may wish to consider filing a petition to reinstate the patent based on unintentional expiration under 37 CFR 1.378(c). The surcharge of for the unintentional petition under 37 CFR 1.378 (c) is $1,640. If petitioner has previously submitted the surcharge for unavoidable delay. The unavoidable surcharge ($700) can be applied to the unintentional surcharge ($1640). In general, a petition under 37 CFR 1.378 (c) needs to state that expiration of the patent was

unintentional, whereas a petition under 37 CFR 1.378 (c) must prove that the entire delay in payment was unintentional.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: ANTHONY J. BAERLOCHER	: DECISION ON REQUEST FOR
Patent Number	: 5788573	: RECALCULATION of PATENT
Issue Date	: 08/04/1998	: TERM ADJUSTMENT IN VIEW
Application No	: 08/620,586	: OF WYETH
Filed	: 03/22/1996	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 42

THOMAS E KELLEY
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA MA 01821

COPY MAILED

APR 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Brown et al.	:	
Application No. 08/621,631	:	ON PETITION
Filed: March 26, 1996	:	
Attorney Docket No. 12317/142215	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 5, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 6, 2001, which set a shortened statutory period for reply of three (3) months on May 6, 2002. Applicant filed an extension of time to six months in accordance with 37 CFR 1.136(a) and a Notice of Appeal on May 6, 2002. Applicant filed a three month extension of time and an appeal brief in triplicate on October 7, 2002. However, applicant responded only to the rejections and not to the requirement for formal drawings. In accordance with 37 CFR 1.135 (c), applicant's request to hold the requirement for corrected drawings to be held in abeyance was not deemed bona fide. Accordingly, the above-identified application became technically abandoned on October 7, 2002, since the period for reply set forth in the final Office Action had expired. A Notice of Abandonment was mailed on January 14, 2003.

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

Telephone inquiries concerning this decision should be directed to Phillip Gambel at (703) 305-4066.

The application file is being forwarded to Technology Center 3600, Art Unit 3641 for further processing on applicant's submission of formal drawings, filed March 5, 2003 in addition to applicant's previous submission of a Notice of Appeal and a Brief on Appeals.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: Charles W. Calkins
KILPATRICK STOCKTON LLP
1001 West Fourth Street
Winston-Salem, NC 27101

UN[redacted] DEPARTMENT OF COMMERCE
Pat[redacted]demark Office
ASS[redacted]NT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 31

Peter G. Carroll
Medlen and Carroll, Suite 2200
220 Montgomery Street
San Francisco, CA 94104

COPY MAILED

DEC 1 1 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Paul V. Lehmann et al.Franz-Josef Kalde
Application No. 08/621,725
Filed: March 21, 1996
Attorney Docket No. CASE-02138

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 1.192(c). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 1.192(c) mailed February 3, 2000, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, teh appeal was dismissed and the proceedings as to the rejected claimes were terminated. See 37 CFR 1.192(d) & 1.197(c). As no claim was allowed, the above-identified application became abandoned on April 4, 2000. See MPEP 1215.04.

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

The application file is being forwarded to Technology Center AU 1644, for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5937011	1999-08-10	08622060	1996-03-26	078700.140000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/33936/Richard E. Kurtz/	Date (YYYY-MM-DD)	2007-08-21
Name	Richard E. Kurtz	Registration Number	33936

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5937011
Issue Date: August 10,1999
Application No. 08622060
Filed: March 26,1996
Attorney Docket No. P0103

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 21,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 21,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,730,688	1998-03-24	08/623,136	1996-03-28	Prusick

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DougB/	Date (YYYY-MM-DD)	2010-05-24
Name	Douglas S. Bishop	Registration Number	30822

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5730688
Issue Date: March 24,1998
Application No. 08623136
Filed: March 28,1996
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 24,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 24,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION ZINN MACPEAK AND SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Patent No. 5,846,142 :

Issue Date: December 8, 1998 :

Application No. 08/624,082 : ON PETITION

Filed: March 29, 1996 :

Attorney Docket No. Q-41184

This is a decision on the petition filed May 17, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5624311
Issue Date: April 29,1997
Application No. 08624341
Filed: April 3,1996
Attorney Docket No. PWW-11102/01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5624311	1997-04-29	08624341	1996-04-03	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Robert Lichtle/	Date (YYYY-MM-DD)	2009-10-16
Name	Robert Lichtle		
Enter Reel and Frame Number		Remove	
Reel Number	015972	Frame Number	0686
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

APR 03 2002

H27

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Richard J. Sterner
White & Case
1155 Avenue of the Americas
New York, NY 10036-2787

In re Application of
Balganesh, et. al.
Application No.: 08/624,396
PCT No.: PCT/SE96/00319
Int. Filing Date:12 March 1996
Priority Date: 30 May 1995
Attorney's Docket No.: None
For: NEW DNA MOLECULES

DECISION ON

PETITION

UNDER 37 CFR 1.182

This is a decision in response to the applicant's request to perfect the claims for priority to Indian Application No. 293/MAS/95, filed on 09 March 1998. This request is being treated as a petition under 37 CFR 1.182 to add a priority claim. The petition fee of $130.00 has been charged to applicant's deposit account.

BACKGROUND

On 12 March 1996, applicant filed international application PCT/SE96/00319 which claimed priority of three earlier Swedish applications, the earliest of which was filed 30 May 1995. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 December 1996. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 October 1996 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 30 November 1997.

On 04 April 1996, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, a combined declaration and power of attorney, an assignment and the basic national fee of $1010 as required by 35 U.S.C. 371(c). These papers were assigned application number 08/624,396.

On 09 March 1998, applicant filed a request for acknowledgement of applicant's priority claim to Indian Application No. 293/MAS/95 filed 13 March 1995, under 35 U.S.C. §119. At that time, applicant also submitted a certified copy of this document.

DISCUSSION

35 U.S.C.365(b) states:

> (b) In accordance with the conditions and requirements of section 119(a) of this title and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

Therefore, in order for a claim of foreign priority in an international application to be valid, it must be made in accordance with the conditions and requirements of 35 U.S.C. 119(a) and the treaty and the Regulations.

PCT Article 8(1) states:

> (1) The international application may contain a declaration, as prescribed in the Regulations, claiming the priority of one or more earlier applications filed in or for any country party to the Paris Convention for the Protection of Industrial Property.

A review of the Request form (PCT/RO/101) reveals that the Indian application was claimed as priority in the PCT application. This priority claim was deleted *ex officio* by the receiving Office because it did not comply with PCT Article 8(1) since India was not a Paris Convention country.

Since 35 U.S.C. 365(b) requires that a foreign claims for priority in an international application be made accordance with the treaty and the Regulations, the claim to the Indian application is not valid.

CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C., 20231, with the contents of this letter marked to the attention of the PCT Legal Office.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

DSB/RC:dsb
Telephone: (703) 308-3401
Facsimile: (703) 308-6459

#34

30 SEP 2003

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Richard J. Sterner
White & Case
1155 Avenue of the Americas
New York, NY 10036-2787

In re Application of	:
Balganesh, et. al.	:
Application No.: 08/624,396	: DECISION ON
PCT No.: PCT/SE96/00319	:
Int. Filing Date: 12 March 1996	: PETITION
Priority Date: 30 May 1995	:
Attorney's Docket No.: None	: UNDER 37 CFR 1.182
For: NEW DNA MOLECULES	:

This is a decision in response to the applicant's request to perfect the claims for priority to Indian Application No. 293/MAS/95, filed on 09 March 1998. This request is being treated as a petition under 37 CFR 1.182 to add a priority claim. The petition fee of $130.00 has been charged to applicant's deposit account.

BACKGROUND

On 12 March 1996, applicant filed international application PCT/SE96/00319 which claimed priority of three earlier Sweedish applications, the earlies of which was filed 30 May 1995. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 December 1996. A Demand for international preliminary examination, in which the United States was elected, was filed on 10 October 1996 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 30 November 1997.

On 04 April 1996, applicant filed a letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, a combined declaration and power of attorney, an assignment and the basic national fee of $1010 as required by 35 U.S.C. 371(c). These papers were assigned application number 08/624,396.

On 09 March 1998, applicant filed a request for acknowledgement of applicant's priority claim to Indian Application No. 293/MAS/95 filed 13 March 1995, under 35 U.S.C. §119. At that time, applicant also submitted a certified copy of this document.

On 03 April 2002, a decision was mailed to applicant indicating that because 35 U.S.C. 365(b) requires that a foreign claims for priority in an international application be made accordance with the treaty and the Regulations, the claim to the Indian application is not valid.

DISCUSSION

35 U.S.C.365(b) states:

> (b) In accordance with the conditions and requirements of section 119(a) of this title and the treaty and the Regulations, an international application designating the United States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

Therefore, in order for a claim of foreign priority in an international application to be valid, it must be made in accordance with the conditions and requirements of 35 U.S.C. 119(a) and the treaty and the Regulations.

PCT Article 8(1) states:

> (1) The international application may contain a declaration, as prescribed in the Regulations, claiming the priority of one or more earlier applications filed in or for any country party to the Paris Convention for the Protection of Industrial Property.

When the international application was filed, India was not party to the Paris Convention. Therefore, the Indian application was not a valid priority claim in the international application. Accordingly, the receiving Office deleted the Indian application *ex officio*.

Although applicant would rely solely on 35 U.S.C. 119, 35 U.S.C. 365(b) clearly states that applicant must comply with both 119(a) ***and the treaty***. Applicant cannot completely ignore this fact simply because the Indian priority claim does not comply with the treaty. The priority in this application is not in compliance with 35 U.S.C. 365(b) and is therefore, invalid.

CONCLUSION

The petition under 37 CFR 1.182 is **DISMISSED**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Leonard Smith
PCT Legal Examiner
PCT Legal Office

DSB/LS:dsb
Telephone: (703) 308-3401
Facsimile: (703) 308-6459

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9-8-05

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 6921813

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Check claims

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriate box.

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

Comments:

_____

_____

_____

_____

_____

SPE **Art Unit** 1644

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WELSH & KATZ, LTD.
120 SOUTH RIVERSIDE PLAZA, FLOOR 22
CHICAGO, IL 60606-3912

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JUN 0 2 2006
OFFICE OF PETITIONS

In re Application of :
McWilliams, Edward L. :
Patent No. 5,659,933 : ON PETITION
Application No. 08/625,236 :
Filed: April 1, 1996 :
Issued: August 26, 1997
Attorney Docket No. 8984-90623

This is a decision on the petition under 37 CFR 1.378(c), filed May 2, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued August 26, 1997. The last day of the grace period for paying the 7.5-year maintenance fee was August 26, 2005. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Petitioner should note that submission of a power of attorney and/or a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

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

Liana Chase
Petitions Examiner
Office of Petitions

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NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 12-12-01

TO : Supervisor, Art Unit 2700

SUBJECT: Certificate of Correction Request in Patent No. 5,892,823

EXPEDITE

A response to the following question(s) is requested with respect to the accompanying request for a certificate of correction.

- [ ] 1. Would the change(s) requested under 37 CFR 1.323 constitute new matter or require reexamination of the application?
- [ ] 2. Would the change(s) requested under 37 CFR 1.323 Materially affect the scope or meaning of the claims allowed by the examiner in the patent?
- [ ] 3. Applicant disagrees with change(s) initialed and dated by Examiner in lieu of an Examiner's Amendment. Should the change request be granted?
- [x] 4. With respect to the change(s) requested, correcting ~~Office errors~~ References, should the patent read as shown in the certificate of correction?
- [ ] 5. If the amendment filed _____ had been considered by the Examiner, would the amendment have been entered?

PLEASE RESPOND WITHIN 7 DAYS AND RETURN THE FILE TO PALM LOCATION 7580, CERTIFICATE OF CORRECTION BR. PARK 3-915/9222,

Magdalene Talley

Legal Insturment Examiner

EXPEDITE

TO: CERTIFICATE OF CORRECTION BRANCH | DATE:

The decision regarding the change(s) requested in the certificate of correction is shown below.

[ ] 1.YES	[ ] NO	[ ] Comments below
[ ] 2.YES	[ ] NO	[ ] Comments below
[ ] 3.YES	[ ] NO	[ ] Comments below
[ ] 4.YES	[x] NO	[x] Comments below
[ ] 5.YES	[ ] NO	[ ] Comments below

[x] Comments Classification info. is not required. Furthermore, with regard to 4,558,856, the proposed entry of "179/2C" is incorrect since class 179 was abolished since 1983. Hence there is no reason to enter the changes

Supervisor

2644

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 18

GENENCOR INTERNATIONAL INC
925 PAGE MILL ROAD
PALO ALTO, CA 94304-1013

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NOV 0 4 2002

OFFICE OF PETITIONS

In re Application of
Bott, et al.
Application No. 08/625,487
Filed: March 29, 1996
Attorney Docket No. GC290

DECISION ON PETITION

This is a decision on the petition filed July 9, 2002, to revive the above-identified application under 37 CFR 1.137(b).

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

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed August 28, 1997. This Office action set a shortened statutory period for reply of thirty (30) days from the mailing date of the action. No extensions of time under 37 C.F.R. § 1.136(a) were obtained. An election was received on April 1, 1998, along with a request for extension of time. The response was not entered as the maximum period for reply had expired, including any period for extension for reply under § 1.136[1]. Accordingly, the above-identified application became abandoned at midnight on September 27, 1997. A courtesy Notice of Abandonment was mailed on April 27, 1998[2].

With the instant petition, petitioner filed a response to the non-final Office action in the form of an election, and met all other requirements for a grantable petition under 37 CFR 1.137(b).

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62

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[1] An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Office finance records indicate that the fee for the extension of time was not charged.

[2] It is noted that the petition includes persuasive evidence that the Notice of Abandonment mailed April 27, 1998, was mailed to the original correspondence address of record, despite a change of correspondence address having been filed on March 31, 1998. As mailing of a Notice of Abandonment is a courtesy, nonreceipt of the Notice does not warrant withdrawal of the holding of abandonment. Even if it did, it has been significantly longer than two months since the abandonment of the application. See 37 CFR 1.181(f).

Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office). Providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished)(patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

Both the change of correspondence address and associate power of attorney submitted on petition are acknowledged and made of record.

The application file is being forwarded to Technology Center 1651 for consideration of the response to the restriction requirement (Paper No. 15).

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5638967	1997-06-17	08625776	1996-03-29	B87.312-0024

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
◉	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alan M. Koenck/	Date (YYYY-MM-DD)	2010-06-24
Name	Alan M. Koenck	Registration Number	43724

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5638967
Issue Date: June 17,1997
Application No. 08625776
Filed: March 29,1996
Attorney Docket No. B87.312-24

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 24,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 24,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/625,880	04/01/1996	ANTHONY P. MANZARA	52542USA4A	6135

32692 7590 03/16/2009
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER
BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
1713	

NOTIFICATION DATE	DELIVERY MODE
03/16/2009	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):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

3M Innovative Properties Company
PO Box 33427
St. Paul MN 55133-3427

In re Manzara	: **DECISION**
Application No. 08/625,880	: **DISMISSING**
Filed: April 1, 1996	: **PETITION**
Patent No. 5.681,904	:
Issued: October 28, 1997	:

This is a decision on a September 17, 2004 submission, which appears to be intended as a petition under § 1.59, which will be treated as such, requesting expungement and return of a reference in the file record.

The petition is Dismissed.

Background Information

The instant application was filed on April 1, 1996.

On June 24, 1996 applicant submitted an Information Disclosure Statement that listed a presentation of a paper by Reed, Jr., entitled Urethane and Triazole Cured Bamo/NMMO Propellants," and a copy of the paper. The IDS list was initialed by the examiner as having considered the paper.

On September 17, 2004 patentee submitted:

(1) the instant petition under § 1.59 requesting expungement and return of the Reed, Jr. paper;
(2) a courtesy copy of a statutory disclaimer wherein all the claims of the instant patent have been disclaimed and the patent dedicated to the public in its entirety;
(3) a copy of an assignment and recordation cover sheet of the instant application by 3M Company to 3M Innovative Properties Company; and
(4) a statement that there is no continuing application or patent claiming priority to the application which gave rise to the disclaimed patent.

Decision on Petition

The Eighth Edition, Revision 2, Appendix R, § 1.59(b)(2) (May 2004) of the Manuel of Patent Examining Procedure states (which provision is still in effect) states in-part:

> Any petition to expunge information from an application must include the fee ... and establish to the satisfaction of the Director that the expungement of the information is appropriate ....

Preliminarily, it is noted that § 1.59 is limited to an application file and does not extend to patent files. Petitioner has not identified any jurisdictional basis for requesting expungement in a patent file.

Assuming arguendo that § 1.59 were to be applicable to patent files, the petition was not accompanied by the petition fee, or by any explanation as to why it would be appropriate for the Director to return the IDS document, particularly as the document was identified on the face of the patent, and the file record would still retain the IDS list indicating that the document was reviewed by the examiner in the course of prosecution.

It is also noted that the file content of the application has been publicly available as of October 28, 1997 when the patent issued, about seven years prior to submission of the petition. 37 CFR 1.11(a).

Processing

The file record is currently in paper and will be retained by OPLA for TWO MONTHS from the mail date of this Decision to await any reply. No extensions of time will be permitted.

Absent any reply, the paper file record will be forwarded for scanning. The electronic record reflecting the September 17, 2004 petition and the instant Decision will be closed in view of the lack of jurisdiction to address expungement in a patent file.

Hiram H. Bernstein
Senior Legal Advisor
Office of Patent Legal Administration
(571) 272- 7707

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

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KILPATRICK STOCKTON L.L.P.
700 13TH STREET NW
SUITE 800
WASHINGTON , DC 20005

Mailed
JAN 13 2000
Director's Office
Group 2700

Paper No. 28

In re Application of QUINN ET AL.
Appl. No.: 08/626,600
Filed: APRIL 2, 1996
For: DOCUMENT STORAGE AND RETRIEVAL SYSTEM (as amended)

REQUEST FOR RECONSIDERATION OF REFUND DENIAL

On December 2, 1999, a petition decision was mailed which included a denial of a request, filed on April 12, 1999, for a refund of a one-month extension of time.

A reconsideration of this decision was requested by Benjamin D. Driscoll, petitioners' representative, in a telephone conference with Joseph J. Rolla, on January 5, 2000. Upon review, the papers submitted on April 12, 1999 include a copy of an extension of time request and a copy of a check for $110, both dated March 4, 1999. The PTO does not have an original version of that extension of time request. A review of the PTO's fee records for this application shows that a check for $110 for an extension of time was received on March 4 and cashed on March 8, 1999, and that a second $110 check was received on April 2, 1999 and cashed on April 5, 1999. In view of this evidence, it is clear that petitioners had timely submitted an extension of time payment on March 4, 1999. Petitioners' request for a refund will be granted. A refund of $110 will be credit to deposit account no. 11-0855.

For the reasons given above, the Request for Reconsideration is Granted.

Joseph J. Rolla, Jr., Director
Technology Center 2700
Communications and Information Processing

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5653049	1997-08-05	08627109	1996-04-03	PO3443US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-01-19
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5653049
Issue Date: August 5,1997
Application No. 08627109
Filed: April 3,1996
Attorney Docket No. PO3443US

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed January 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 19,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 20 2004

Paper No. 48

In re Application of
Hideaki Tojo *et al*
Application No. 08/627,270
Filed: April 4, 1996
Attorney Docket No. SKO-104-A-1

: DECISION ON PETITION

This is a decision on the petition filed on May 17, 2004, by which petitioners request withdrawal of holding that this application stands abandoned for failure to file a timely reply to the Office letter dated September 12, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because petitioners did in fact file a timely reply to the Office letter in question. Petitioners support this allegation by submitting a copy of the reply. The reply has affixed thereto a 37 CFR 1.8(a) certificate of transmission dated December 12, 2003, a date within the period for filing a reply to Office letter in question. Therefore, it is clear that this application is not abandoned. See 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply that is attached to the petition. The date to which the reply is entitled is December 12, 2003. Thereafter, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Carrier, Blackman & Associates
24101 Novi Road
Suite 100
Novi, MI 48375-3248

UNITED STATES PATENT AND TRADEMARK OFFICE

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

COPY MAILED #50

APR 17 2006

OFFICE OF PETITIONS

In re Application of	
Baur et al.	
Application No. 08/627,386	Decision on Petition for
Filed: April 4, 1996	Patent Term Extension
Attorney Docket No. MERCK-1753D	
For: LIQUID CRYSTAL DISPLAY	
DEVICES HAVING A PARALLEL	
ELECTRIC FIELD AND WHICH < 30	

The above-identified application has been forwarded to the undersigned for consideration on the "Petition Under 37 CFR 1.181," which was received on March 26, 2005, for the above-identified application. See 35 U.S.C. § 154(b) and 37 C.F.R. § 1.701.

The petition is dismissed.

Petitioner notes that the above-identified application was filed on April 4, 1996, a Notice of Appeal was filed on November 21, 2001, an Appeal Brief was filed on February 28, 2002, and the Board of Patent Appeals and Interferences (BPAI) reversed the decision of the Examiner on November 22, 2004. Petitioner argues that the Notice of Allowance and Issue fee mailed on January 27, 2005, improperly failed to include a patent term extension of 1098 days. Petitioner asserts that the application is entitled to 1098 days of patent term extension and that the terminal disclaimer filed on June 4, 1999, in response to the obvious double patenting rejection in view of U.S. Patent No. 5,576,867 is not the type of terminal disclaimer specified in 35 U.S.C. 154. Petitioner argues that the statutory exclusion for patent term extension for terminal disclaimers is opposite to the usual kind of terminal disclaimer, which is filed due to a double patenting situation where and application's subject matter is patentably indistinct from that claimed in an issued patent. Petitioner argues that the statute is only applicable when a terminal disclaimer is filed in a two-way test, double patenting scenario. Petitioner argues that this application could not have been subject to the two-way test, thus it must have been the one-way test and therefore the application is entitled to 1098 days of patent term extension.

35 U.S.C. 154. Contents and term of patent (in effect on June 8, 1995)
***

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

(2) EXTENSION FOR APPELLATE REVIEW.-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000. The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

The above-identified application was filed on November 22, 1995, which is after June 8, 1995 and before May 29, 2000, and, as a result is an application that may be eligible for patent term extension under 35 U.S.C. § 154. While the application was issued pursuant to an adverse determination of patentability by the BPAI, the application is subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct.

On November 30, 1998, the examiner made a double patenting rejection in view of U.S. Patent No. 5,576,867 stating the claims if allowed, would improperly extend the right to exclude already granted in the patent. The examiner stated that U.S. Patent No. 5,576,867 covered the subject matter claimed in the instant application. In response, the terminal disclaimer was filed on June 4, 1999. With respect to Petitioner's argument that the exclusion in 35 U.S.C. § 154 for terminal disclaimers only applies to situations in which the two-way test applies is not persuasive. There is nothing in the statutory language with respect to the one-way or two-way test. The statute states that a "patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review" and the patent that is to be issued is subject to a terminal disclaimer.

The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUITE 1400
ARLINGTON VA 22201

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DEC 0 6 2007

OFFICE OF PETITIONS

In re Application of	:
Baur et al.	:
Application No. 08/627,386	: Decision on Petition for
Filed: April 4, 1996	: Patent Term Extension
Attorney Docket No. MERCK-1753D	:
For: LIQUID CRYSTAL DISPLAY	:
DEVICES HAVING A PARALLEL	:
ELECTRIC FIELD AND WHICH < 30	:

The above-identified application has been forwarded to the undersigned for consideration on the "Request for Reconsideration of Decision on Petition for Patent Term Extension," which was received on May 10, 2006, for the above-identified application. See 35 U.S.C. § 154(b) and 37 C.F.R. § 1.701.

The petition is **denied.**

Background

Petitioner filed a petition as a "Petition Under 37 CFR 1.181" for review of the patent term extension on March 28, 2005, for an extension of the patent term. Petitioner requested a patent term extension of 1,098 days due to delays in the Office during which the application was under appeal. On April 17, 2006, the petition was dismissed and the patent term extension was 0 days.

Petitioner notes that the above-identified application was filed on April 4, 1996, a Notice of Appeal was filed on November 21, 2001, an Appeal Brief was filed on February 28, 2002, and the Board of Patent Appeals and Interferences (BPAI) reversed the decision of the Examiner on November 22, 2004. Petitioner argues that the Notice of Allowance and Issue fee mailed on January 27, 2005, improperly failed to include a patent term extension of 1098 days. Petitioner asserts that the application is entitled to 1098 days of patent term extension and that the terminal disclaimer filed on June 4, 1999, in response to the obvious double patenting rejection in view of U.S. Patent No. 5,576,867 is not the type of terminal disclaimer specified in 35 U.S.C. 154. Petitioner argues that the statutory exclusion for patent term extension for terminal disclaimers is opposite to the usual kind of terminal disclaimer, which is filed due to a double patenting situation where an application's subject matter is patentably indistinct from that claimed in an issued patent. Petitioner argues that the statute is only applicable when a terminal disclaimer is filed in a two-way test, double patenting scenario. Petitioner argues that this application could not have been subject to the two-way test, thus the terminal

disclaimer must have been required based on the one-way test and therefore the application is entitled to 1098 days of patent term extension. In the petition received on March 28, 2005, Petitioner argued that the patent term extension should be 1,098 days. Petitioner argues that patent term extension in this application should be extended by 1,098 days and that the Office did not address his argument concerning the interpretation of the statutory language.

Applicable Statutes and Regulation

35 U.S.C. 154. Contents and term of patent (in effect on June 8, 1995)
***

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

(2) EXTENSION FOR APPELLATE REVIEW.-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000. The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

37 CFR 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

(1) interference proceedings under 35 U.S.C. 135(a); and/or

(2) the application being placed under a secrecy order under 35 U.S.C. 181; and/or

(3) appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3), and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) with respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) the number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) the number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) the number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 1.193 in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) the member of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) the number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal Court in an appeal under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and

(2) any time during the period of appellate review, as determined by the Commissioner, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Commissioner may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

Opinion

The above-identified application was filed on November 22, 1995, which is after June 8, 1995 and before May 29, 2000, and, as a result is an application that may be eligible for patent term extension under 35 U.S.C. § 154. While the application was issued pursuant to an adverse determination of patentability by the BPAI, the application is subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct.

On November 30, 1998, the examiner made a double patenting rejection in view of U.S. Patent No. 5,576,867 stating the claims if allowed, would improperly extend the right to exclude already granted in the patent. The examiner stated that the subject claimed in the instant application is fully disclosed in U.S. Patent No. 5,576,867 and is covered by the patent, since the patent and application are claiming common subject matter. In response, the terminal disclaimer was filed on June 4, 1999. Petitioner's assertion that the exclusion in 35 U.S.C. § 154 for terminal disclaimers only applies to situations in which the two-way test applies, is not persuasive. There is nothing in the statutory language with respect to the one-way or two-way test. The statute states that a "patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review" and the application for which extension is sought is subject to a terminal disclaimer.

The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Decision

The prior decision which refused to grant a petition under 35 U.S.C. 154(b) and 37 CFR 1.701 for patent term extension for the delayed issuance of the patent for the above-identified patent application has been reconsidered. For the reasons stated herein, and in the previous decision, however, a patent term extension in this case cannot be granted under 35 U.S.C. § 154(b) and 37 CFR §§ 1.182 and 1.701. Therefore, the petition is **denied**.

This decision may be viewed as a final agency action. See MPEP § MPEP 1002.02(b).

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Robert Clarke

Robert Clarke
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ARLINGTON VA 22201

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JUN 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Baur et al.	:	
Application No. 08/627386	:	
Filing or 371(c) Date: 04/04/1996	:	
Attorney Docket Number:	:	
MERCK-1753-D	:	ON PETITION

This is a decision on the "Request for Withdrawal of Improper Holding of Abandonment, filed April 24, 2008. The request is properly treated as a petition under 37 C.F.R. 1.181.

This Petition is hereby granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 15, 2007. The Office action set a three (3) month period for reply. No response having been received, the application became abandoned on August 16, 2007. A Notice of Abandonment was mailed April 16, 2008.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2871 for re-mailing of the Office action and re-setting the period for reply.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
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ARLINGTON, VA 22201

Mail Date: 04/22/2010

Applicant	: GUNTER BAUR	: DECISION ON REQUEST FOR
Patent Number	: 7656490	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 08/627,386	: OF WYETH
Filed	: 04/04/1996	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5928932	1999-07-27	08627873	1996-04-03	NREL 95-57

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul J. White/	Date (YYYY-MM-DD)	2007-10-18
Name	Paul J. White	Registration Number	30436

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5928932
Issue Date: July 27,1999
Application No. 08627873
Filed: April 3,1996
Attorney Docket No. NREL-95-57

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 18,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5632312	1997-05-27	08628132	1996-04-04	Dymetrol-2 USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brian A. Gomez/	Date (YYYY-MM-DD)	2010-02-28
Name	Brian A. Gomez	Registration Number	44718

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5632312
Issue Date: May 27,1997
Application No. 08628132
Filed: April 4,1996
Attorney Docket No. DYMETROL-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 28,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 28,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 26

ANTONELLI TERRY STOUT & KRAUS LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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JAN 14 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Hidetoshi Honbo et al :
Application No. 08/630,501 :
Filed: April 10, 1996 :
Attorney Docket No. 503.34465X00 :

ON PETITION

This is a decision on the petition, filed December 27, 1999, to withdraw the above-identified application from issue pursuant to the provisions of 37 CFR 1.313(b)(5).

The petition is granted.

Petitioner requests that the above-identified application be withdrawn from issue to permit abandonment for consideration of an Information Disclosure Statement in a continued prosecution application filed of even date.

The application is withdrawn from issue.

Petitioner is advised that the issue fee paid on November 30, 1999 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed December 27, 1999.

The application will be forwarded to Technology Center AU 1745 for processing the CPA.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8680.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Paper No. 26

MAR 9 2004

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of:	:	
Memmler, *et al.*	:	
Application No. 08/631,331	:	DECISION ON REQUEST TO
Filed: April 12, 1996	:	WITHDRAW HOLDING OF
Attorney Docket No.: 32315-145574 RK (Former TEG 1226)	:	ABANDONMENT

This is a decision on the request filed April 02, 2001, requesting withdrawal of the holding of abandonment for the above-identified application.

The request is **granted**.

The application was held abandoned for failure to file an Appeal Brief. A Notice of Abandonment was mailed on February 01, 2001.

Petitioner asserts that on June 28, 2000, a response, including a four-month extension of time request and Continued Prosecution Application (CPA), were timely filed. To support this assertion, petitioner has submitted a copy of the response and a copy of an itemized postcard date stamped by the United States Patent and Trademark Office (PTO) on June 28, 2000.

A review of the application file record reveals that the above-identified response was not associated with the application file at the time the Notice of Abandonment was mailed, but has since been located and matched therewith.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the TC 2800 Support Staff for processing of the CPA received June 28, 2000.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20045-9998

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AUG 24 2006
OFFICE OF PETITIONS

In re Patent No. 7,053,669	:	
Memmler et al.	:	
Issue Date : May 30, 2006	:	LETTER REGARDING
Application No. 08/631,331	:	PATENT TERM ADJUSTMENT
Filed: April 12, 1996	:	
Atty Docket No. 43881-204487	:	

This is in response to the REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT filed June 30, 2006. Pursuant to patentees' duty of good faith and candor, patentees disclose that there is a discrepancy in the Patent Term Determination indicated in the above-identified patent.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand two hundred eighty-nine **(1289)** days.

On May 30, 2006, the application matured into U.S. Patent No. 7,053,669, with a revised patent term adjustment of 1826 days. Patentees state no basis for their request for review.

The patent term adjustment has been reviewed and it is determined that the PTA of 1826 is incorrect. The instant application became eligible for patent term adjustment for examination delay by virtue of the filing of a continued prosecution application on June 28, 2000. The correct periods of adjustment are, as follows:

- Pursuant to § 1.703(a)(1), the period is 1147 days, the number of days beginning on the date after the day that is

fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), August 29, 2001, and ending on the mailing date of an action under 35 U.S.C. 132 on October 18, 2004.

- Pursuant to § 1.703(a)(6), the period is 173 days, the number of days in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied, December 9, 2005 and ending on the date the patent was issued, May 30, 2006.

The periods of adjustment of 1364 and 1354 shown in the record are incorrect. The Notice to File Missing Parts mailed July 23, 2004 is not an action under 35 U.S.C. 132. Further, there is no basis for assessing Office delay based on the mailing of the Notice to File Missing Parts. The Notice of Allowance mailed May 13, 2005 was mailed in response to, and within four months of, applicant's response filed February 18, 2005. Thus, there was no basis for an entry of a period of adjustment for Office delay.

The period of reduction of 31 days entered in the record pursuant to § 1.704(b) is correct. Applicants took in excess of three months to file a response to the non-final Office action mailed October 18, 2004. A response was not received until February 18, 2005, three months and 31 days later.

In view thereof, the patent should have issued with a revised patent term adjustment of one thousand two hundred eighty-nine (1289) days (1147 + 173 days of Office delay reduced by 31 days for Applicant delay).

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE THOUSAND TWO HUNDRED EIGHTY-NINE** (1289) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,053,669 B1

DATED : May 30, 2006

INVENTOR(S) : Memmler 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 (1826) days

Delete the phrase "by 1826" and insert – by 1289 days--

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5681987	1997-10-28	08631555	1996-04-12	528.311

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jay G. Durst/	Date (YYYY-MM-DD)	2007-10-26
Name	Jay G. Durst	Registration Number	41723

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5681987
Issue Date: October 28,1997
Application No. 08631555
Filed: April 12,1996
Attorney Docket No. TOPO-38639

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 26,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 26,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,856,779	1999-01-05	08/632,008	1996-04-15	054561/344801

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/michelle l. cunningham/	Date (YYYY-MM-DD)	2008-12-08
Name	Michelle L. Cunningham	Registration Number	51072

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5856779
Issue Date: January 5,1999
Application No. 08632008
Filed: April 15,1996
Attorney Docket No. P-3275-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 8,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WEAVER, AUSTIN, VILLENEUVE & SAMPSON, LLP
P.O. Box 70250
Oakland, CA 94612-0250

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OFFICE OF PETITIONS

In re Patent No. 5,754,248	:	
Issue Date: May 19, 1998	:	
Application No. 08/632,027	:	DECISION ON PETITION
Filed: April 15, 1996	:	
Inventor: Yves C. Faroudja	:	

This is a decision on the petitions, filed August 15, 2008, and October 7, 2008, pursuant to 37 CFR §§ 1.59(b), and 1.183. The petition is being treated as a petition under 37 CFR §1.182 to invalidate an assignment previously recorded against the above-identified patent.

The petition under 37 CFR § 1.183 is **dismissed as premature**.

The petition under 37 CFR § 1.182 is **dismissed**.

Any reply must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. This is not a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner has requested that the assignment record be amended to reflect that petitioner is the true owner of the above-noted patent. In particular petitioner requests expungement of purportedly erroneous assignment documents at Reel 020817, Frame 0243, so that petitioner Yves C. Faroudja, may be identified as the true and correct owner of the '385 patent. Petitioner submits that the assignment submitted on April 9, 2008 was submitted with an improper document attached and therefore request expungement of the assignment.

A review of the complete file history in this case indicates that there is no petition decision mailed September 19, 2008, as alleged in petitioner's Request for Reconsideration under 37 CFR § 1.183. Hence the petition under 37 CFR § 1.183 petition is dismissed as being premature.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

(A) the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief; and

(B) the integrity of the assignment records will not be affected by granting the petition.

Petitioner has not proven either item A or B.

In regard to item A, there is no evidence of record that petitioner has attempted or considered any of the corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c). Also, there is no explanation of record as to why none of these procedures would provide adequate relief.

Petitioner seeks an extraordinary remedy, properly addressed under 37 CFR § 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR § 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR § 3.11. However, the recording of a document pursuant to 37 CFR § 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR § 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP § 314).

Therefore, the rules of practice and the procedures before the USPTO provide an avenue for the requested relief without relying upon extraordinary measures. As a request for the Office to invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

In regard to item B, the statements submitted in support of the petition to expunge fails to establish that expungement will not affect the assignment records in this instance. The

assignment recorded in the USPTO assignment records indicates that Faroudja Laboratories, Inc. has some rights with regard to the above mentioned patent, which suggests that the recordation may have been proper. Petitioner should note that recordation is available for numerous documents related to a patent, not just the assignment of the entire right, title and interest in the patent. See at least MPEP § 313. Moreover, the USPTO does not determine the extent of rights transferred by the assignment papers or any recorded document. Such a determination is made by a court of relevant jurisdiction. No evidence is of record establishing that the assignment was recorded improperly. Absent sufficient evidence to support the requested expungement, the integrity of the assignment records will not be disturbed by the USPTO.

In addition, the petition fee paid is not sufficient. A petition under 37 CFR § 1.182 requires the payment of $400.00. However, only $200.00 has been paid due to the erroneous assumption that the petition was properly filed under 37 CFR § 1.59. A petition under 37 CFR § 1.59 applies to application files, not assignment records. The $200.00 payment has been credited to petitioner's Deposit Account 50-4481. A petition to expunge assignment documents is properly addressed under 37 CFR § 1.182 and a fee of $400.00 is required. As authorized, the required fee of $400.00 has been charged to petitioner's Deposit Account 50-4481.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the person signing the petition; however, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this communication should be directed to the undersigned at (571)272-0602.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Michael J. Ferrazaro
P.O. Box 1687
Cupertino, CA 95015-1687

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.
08/632,186	04/15/1996	DONALD R. CARGILLE	PD-95298	6190

20991 7590 05/08/2006

THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
P O BOX 956
EL SEGUNDO, CA 90245-0956

EXAMINER
ODA, CHRISTINE K

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 05/08/2006

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. CARGILLE, DONALD R.	:	
Issue Date: January 12, 1999	:	**DECISION GRANTING**
Appl No.: 08/632,186	:	**PETITION**
Filed: April 15, 1996	:	*37 CFR 1.324*
For: TUNNELING-BASE ROTATION RATE SENSOR	:	
	:	
	:	
	:	

This is a decision on the petition filed December 19, 2005 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Hezron E. Williams
Supervisory Patent Examiner
Art Unit 2856
Technology Center 2800

THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

JJGJr: 05-03

Paper 25

BIRCH STEWART
KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH VA 22040-0747

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MAY 0 7 2003

OFFICE OF PETITIONS

In re Application of
Wang, et al. :
Application No. 08/633,212 : ON PETITION
Filed: 16 April, 1996 :
Attorney Docket No. 0465-0274P :

This is a decision on the petition filed 30 April, 2003, under 37 C.F.R. §1.137(b)[1] alleging unintentional delay.

The petition is **DISMISSED**.

NOTES: (1) Any request for reconsideration (with fee) of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.137(b)".

Thereafter there will be no further reconsideration.

(2) Should the petition be granted upon Petitioner's request for reconsideration, it will be only with the caveat that:

The record (including the petition filed on 30 April, 2003 (and succeeding petitions)), does not necessitate a finding that the delay

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

between midnight 28 April, 2000, and the filing of a grantable petition, was not unintentional; rather, the Patent and Trademark Office is relying in this matter on Petitioner's (Joseph A. Kolasch, Reg. No. 22,465) duty of candor and good faith--and that of Assignee's General Patent Manager Gyung-Rae Kim--in accepting (i.e., if and when accepted) Petitioner's representation that the delay in filing the response was unintentional.[2]

BACKGROUND

The record indicates:

- Petitioner failed to respond timely to a final Office action mailed on 28 January, 2000, with reply due (absent extension of time) on or before Friday, 28 April, 2000;
- Notice of Abandonment was mailed on 1 September, 2000;
- with the instant petition (and fee authorization), Petitioner submitted a statement of unintentional delay and a reply styled as an amendment under 37 C.F.R. §1.116;
- notably, Petitioner's amendment fails to place the application in condition for allowance (which the Examiner has refused to enter), and, therefore, is not a proper reply.[3]

ANALYSIS

The requirements of a grantable petition under 37 C.F.R. §1.137(b) are:

- the petition and fee;
- the proper reply (see: Fn. 2, below);
- the statement of unintentional delay to the effect that the entire delay from the due date of the reply until the filing of a grantable petition (under 37 C.F.R. §1.137(b)) was unintentional;

---

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

[3] The proper response to the final Office action (see: Fn. 1, item (1); MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a request for continued examination (RCE) under 37 C.F.R. §1.114 or a continuing application.

and

- where applicable, a terminal disclaimer.

As indicated above, Petitioner failed to submit the proper reply.

Pursuant to Petitioner's authorization, the petition fee is being charged to Deposit Account 02-2448.

Petitioner is cautioned that a delay in addressing this matter properly and timely under 37 C.F.R. §1.137(b) may be considered intentional delay and as such an irreversible bar to revival.

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

By mail: (Effective 1 May, 2003)[4]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
ATTN.: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

[4] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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FALLS CHURCH VA 22040-0747

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OFFICE OF PETITIONS

In re Application of
Wang, et al. :
Application No. 08/633,212 : ON PETITION
Filed: 16 April, 1996 :
Attorney Docket No. 0465-0274P :

This is a decision on the renewed petition filed 5 November, 2003, under 37 C.F.R. §1.137(b) alleging unintentional delay.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to respond timely to a final Office action mailed on 28 January, 2000, with reply due (absent extension of time) on or before Friday, 28 April, 2000;
- Notice of Abandonment was mailed on 1 September, 2000;
- with the original petition (and fee authorization), Petitioner submitted a statement of unintentional delay and a reply styled as an amendment under 37 C.F.R. §1.116--notably, Petitioner's amendment failed to place the application in condition for allowance (which the Examiner has refused to enter), and, therefore, was not a proper reply, for which reason the petition was dismissed on 7 May, 2003;[1]
- with the instant petition (with fee/authorization), Petitioner filed a request for continued

[1] The proper response to the final Office action (see: Fn. 1, item (1); MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a request for continued examination (RCE) under 37 C.F.R. §1.114 or a continuing application.

examination under 37 C.F.R. §1.114 (with fee/authorization) and submission in the form of the previously unentered after-final amendment, and made the statement of unintentional delay.

CONCLUSION

The record (including the petitions filed on 30 April and 5 November, 2003), does not necessitate a finding that the delay between midnight 28 April, 2000, and the filing of a grantable petition on 5 November, 2003, was not unintentional; rather, the Patent and Trademark Office is relying in this matter on Petitioners' (Joseph A. Kolasch (Reg. No. 22,465) and James W. Hellwege (Reg. No. 28,808)) duty of candor and good faith--and that of Assignee's General Patent Manager Gyung-Rae Kim--in accepting Petitioners' representation that the delay in filing the response was unintentional.[2]

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

The instant application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

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

Fax 415-869-9710

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 15

IRELL & MANELLA
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LOS ANGELES CA 90067

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SEP 29 2005

OFFICE OF PETITIONS

In re Patent No. 5,850,522	:	
Issued: 15 December, 1998	:	
Application No. 08/633,839	:	DECISION ON PETITION
Filed: 10 April, 1996	:	
Attorney Docket No.: 29815.0800	:	

This is a decision on the petition filed on 12 July, 2005, under 37 C.F.R. §1.378(b) to accept as unavoidably delayed the maintenance fee for Patent No. 5,850,522 (the '522 patent).

NOTE: There is no indication of record that Petitioner herein ever was empowered in the instant matter. If Petitioner desires to receive future correspondence regarding this matter, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner must submit a fully executed certificate under 37 C.F.R. 3.73(b) (copy enclosed) evidencing Petitioner's rights to/in the instant matter.

The petition is **DISMISSED**.

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JAN 06 2006

NOTES:

(1) If reconsideration of this decision is desired, a petition for reconsideration under 37 C.F.R. §1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 C.F.R. §1.136(a) or (b).

Any such petition for reconsideration must be accompanied by the petition fee as set forth in 37 C.F.R. §1.17(h).

The petition for reconsideration should include an exhaustive attempt to provide the items noted below as lacking.

Thereafter, there will be no further reconsideration or review of the matter undertaken by the Commissioner.

I. BACKGROUND

This patent, which was filed originally on 10 April, 1996, as Application No. 08/633,839, issued on 15 December, 1998, as Patent No. 5,850,522 (the '522 patent). Payment of the first maintenance fee was not timely made. And the twenty-four month period following expiration has elapsed. Therefore, Petitioner's only remedy is a petition under 37 C.F.R. §1.378(b).

Payment Windows

As to the first maintenance fee:

- the first window–for payment of the maintenance fee alone–opened on 15 December, 2001, and closed after midnight Monday, 15 June, 2002;
- the second window–for payment of the maintenance fee and small surcharge–opened on Tuesday, 16 June, 2002, and closed after midnight Monday, 16 December, 2002;
- the third window–for payment of the maintenance fee and the surcharge in connection with an allegation of unintentional delay–opened on Tuesday, 17 December, 2002, and closed after midnight 15 December, 2004;
- the fourth window–for payment of the maintenance fee and the surcharge in connection with an allegation of unavoidable delay–also opened on 17 December, 2002.

Summary of Argument

NOTE: Petitioner requests: "PLEASE KEEP THIS STATEMENT PRIVATE."

However, as Petitioner is well aware, upon issue patent application files are public record, and are therefore open to the public and may be available via the Internet.

Reference is made to the illness of Petitioner and to a bankruptcy event. However, while the medical details are not necessarily pertinent, the exact time periods are required, as are details that indicate how theses event involving Petitioner, who was not the inventor and does not appear to have been an assignee, nonetheless triggered the non-payment of the maintenance fee herein

In this regard, Petitioner is reminded again that patent application files, should they proceed to issue, become public record, and Petitioner may wish to redact private health information, financial accounts information and the like before submission and may wish to substitute such redacted materials with the evidentiary focus as the dates of event for documents submitted and otherwise seek expungement of such private data from Petitioner's application(s).

The sum and substance of the argument presented is that financial collapse of the businesses and Petitioner's subsequent diagnosis with and chemotherapy treatment for cancer prevented the maintenance fee from being paid when due.

Petitioner needs to present a calendar of events commencing on the date when the window opened for payment (December 2001) and through the filing of the instant petition detailing events (with documentation supporting the allegations and calendar) which so resulted in the non-payment of the maintenance fee when due.

Thus, the record is silent and needs to be completed with regard to narrative of events including but not limited to:

- the calendar of events;
- evidence that payment of the maintenance fee was properly calendared;

- identification of an statements from the parties responsible for calendaring and paying the maintenance fees; and

- documents evidencing the adverse financial and health conditions Petitioner alleges resulted in the non-payment of the maintenance fees.

II. STATUES, REGULATIONS, ANALYSIS

Congress has provided in statute as follows:

35 U.S.C. 41 Patent fees; patent and trademark search systems.
(a) GENERAL FEES. — The Director shall charge the following fees:

* * *

(b) MAINTENANCE FEES. — The Director shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:
(1) 3 years and 6 months after grant, $***.
(2) 7 years and 6 months after grant, $*,***.
(3) 11 years and 6 months after grant, $*,***.

Unless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period. The Director may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee.

* * *

The regulations at 37 C.F.R. §1.362 provide in pertinent part:

§ 1.362 Time for payment of maintenance fees.
(a) Maintenance fees as set forth in §§ 1.20(e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.

* * *

(d) Maintenance fees may be paid in patents without surcharge during the periods extending respectively from:
(1) 3 years through 3 years and 6 months after grant for the first maintenance fee,

(2) 7 years through 7 years and 6 months after grant for the second maintenance fee, and
(3) 11 years through 11 years and 6 months after grant for the third maintenance fee.

(e) Maintenance fees may be paid with the surcharge set forth in § 1.20(h) during the respective grace periods after:
(1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.
(2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the second maintenance fee, and
(3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.

(f) If the last day for paying a maintenance fee without surcharge set forth in paragraph (d) of this section, or the last day for paying a maintenance fee with surcharge set forth in paragraph (e) of this section, falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the maintenance fee and any necessary surcharge may be paid under paragraph (d) or paragraph (e) respectively on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.

(g) Unless the maintenance fee and any applicable surcharge is paid within the time periods set forth in paragraphs (d), (e) or (f) of this section, the patent will expire as of the end of the grace period set forth in paragraph (e) of this section. A patent which expires for the failure to pay the maintenance fee will expire at the end of the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant.

(h) The periods specified in §§1.362(d) and (e) with respect to a reissue application, including a continuing reissue application thereof, are counted from the date of grant of the original non-reissue application on which the reissued patent is based. (Emphasis supplied.)

* * *

The regulations at 37 C.F.R. §1.378 provide in pertinent part:

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

(a) The Commissioner may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Commissioner to have been unavoidable (paragraph (b) of this section) or unintentional (paragraph (c) of this section) and if the surcharge required by § 1.20(I) is paid as a condition of accepting payment of the maintenance fee. If the Commissioner accepts payment of the maintenance fee upon petition, the patent shall be considered as not having

expired, but will be subject to the conditions set forth in 35 U.S.C. 41(c)(2).
(b) Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:

(1) The required maintenance fee set forth in § 1.20 (e) through (g);
(2) The surcharge set forth in § 1.20(I)(1); and
(3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

* * *

(d) Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. (e) Reconsideration of a decision refusing to accept a maintenance fee upon petition filed pursuant to paragraph (a) of this section may be obtained by filing a petition for reconsideration within two months of, or such other time as set in, the decision refusing to accept the delayed payment of the maintenance fee. Any such petition for reconsideration must be accompanied by the petition fee set forth in § 1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. If the delayed payment of the maintenance fee is not accepted, the maintenance fee and the surcharge set forth in § 1.20(I) will be refunded following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Any petition fee under this section will not be refunded unless the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

The commentary at MPEP §2506 states in pertinent part:

2506 Times for Submitting Maintenance Fee Payments [R-2]

Maintenance fees <u>cannot</u> be paid in advance since 35 U.S.C. §41(f) permits maintenance fees to be adjusted every year on October 1 to reflect any fluctuations during the previous 12 months in the Consumer Price Index as determined by the Secretary of Labor.

37 C.F.R. §1.362(d) sets forth the time periods when the maintenance fees for a

utility patent can be paid without surcharge. Those periods, referred to generally as the "window period," are the 6-month periods preceding each due date. The "due dates" are defined in 35 U.S.C. §41(b). The window periods are (1) 3 years to 3 ½ years after the date of issue for the first maintenance fee payment, (2) 7 years to 7 ½ years after the date of issue for the second maintenance fee payment, and (3) 11 years to ½ years after the date of issue for the third and final maintenance fee payment. A maintenance fee paid on the last day of a window period can be paid without surcharge. The last day of a window period is the same day of the month the patent was granted 3 years and 6 months, 7 years and 6 months, or 11 years and 6 months after grant of the patent.

37 C.F.R. §1.362(e) sets forth the time periods when the maintenance fees for a utility patent can be paid with surcharge. Those periods, referred to generally as the "grace period," are the 6-month periods immediately following each due date. The grace periods are (1) 3 ½ years and through the day of the 4th anniversary of the grant of the patent, (2) 7 ½ years and through the day of the 8th anniversary of the grant of the patent and, (3) 11 ½ years and through the day of the 12th anniversary of the grant of the patent. A maintenance fee may be paid with the surcharge on the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant to prevent the patent from expiring.

The commentary at MPEP §2590 states in pertinent part:

2590 Acceptance of Delayed Payment of Maintenance Fee in Expired Patent to Reinstate Patent [R-2] - 2500 Maintenance Fees

* * *

UNAVOIDABLE DELAY

* * *

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. <u>Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement</u>.

* * *

Thus, evidence that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid, could be submitted in support of an argument that the delay in payment was unavoidable. <u>For example, an error in a docketing</u>

> system could possibly result in a finding that a delay in payment was unavoidable if it were shown that reasonable care was exercised in designing and operating the system and that the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fees. (Emphasis supplied.)
>
> * * *

No documents and/or statements have been made of record as to the party responsible–Petitioner states that it was the patent holder–for payment of the maintenance fee.

Payment Windows

- within the first window–for payment of the maintenance fee alone–opened on 15 December, 2001, and closed after midnight Monday, 15 June, 2002, as of this writing Petitioner's showing is insufficient;

- within the second window–for payment of the maintenance fee and small surcharge–opened on Tuesday, 16 June, 2002, and closed after midnight Monday, 16 December, 2002, as of this writing Petitioner's showing is insufficient;

- at the opening within the third window–for payment of the maintenance fee and the surcharge in connection with an allegation of unintentional delay–opened on Tuesday, 17 December, 2002, and closed after midnight 15 December, 2004, as of this writing Petitioner's showing is insufficient;

- at the opening of the fourth window–for payment of the maintenance fee and the surcharge in connection with an allegation of unavoidable delay–also opened on Tuesday, 17 December, 2002, in order to satisfy the burden of proof herein, Petitioner would have had to make an adequate showing in one or more of the three periods above, and, as of this writing Petitioner's showing is insufficient.

Direct Evidence

Petitioner must "provide any *direct evidence* proving exactly"[1] what records and systems were in place to satisfy the showing required under 37 C.F.R. §1.378(b). As the court found in Krahn:

---

[1] See: Krahn v. Commissioner, 15 USPQ2d 1823 (E.D. Va. 1990).

Direct Evidence

Petitioner must "provide any *direct evidence* proving exactly"[1] what records and systems were in place to satisfy the showing required under 37 C.F.R. §1.378(b). As the court found in Krahn:

> The Commissioner did not abuse his discretion in ruling that this evidence was insufficient to prove an unavoidable delay * * * . The * * * procedure[s] set out in the PTO regulations were specifically designed to provide patent applicants with a clear procedure to protect themselves from exactly the situation which has arisen in this case. Plaintiff failed to follow these procedures. The Commissioner properly ruled that the alternative means employed by the plaintiff were inadequate * * * . Plaintiff still failed to provide any direct evidence proving exactly [his allegations]. The procedures set out in the PTO's regulations are designed to provide the type of direct evidence needed * * * . Had plaintiff's counsel followed these procedures, as a 'prudent and careful man' would have done in conducting 'his most important business,' then he would have been able to produce sufficient evidence to support a showing of unavoidable delay." (Emphasis supplied.)[2]

Duty of Candor

Petitioners always are reminded of the burden of those registered to practice *and* all others who make representations before the Office, *inter alia*, to inquire into the underlying facts of representations made to the Office.[3]

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[1] See: Krahn v. Commissioner, 15 USPQ2d 1823 (E.D. Va. 1990).

[2] Krahn, at 1825.

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

The regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any

III. CONCLUSION

Petitioner's factual showing (narrative (with statements/declarations by persons with first-hand knowledge of events and transactions) and documentary) is, as of this writing, insufficient.

Accordingly, as of this writing, Petitioner has failed to make the showing necessary under the regulation, and the petition under 37 C.F.R. §1.378(b) hereby is **dismissed**.

In any future filing, this showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application, and documents regarding the alleged cause of the delay and copies of any documents referred to in Petitioner's statement as to the cause of the unavoidable delay are required. All the causes which contributed to the failure to timely pay the maintenance fee must be presented and supported with appropriate evidence.[4] (In general, a Petitioner should identify the party(ies) responsible for making the payment: A showing must be made (with supporting documents) outlining the efforts made to ensure timely payment of the maintenance fee--including scheduling and calendaring information, appointment of an individual with the authority and responsibility to pay the fee, and detailing of the causes for a failure in that process.)

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false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

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(1) Holding certain facts to have been established;

(2) Returning papers;

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(5) Requiring a terminal disclaimer for the period of the delay; or

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(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] The showing must also enumerate the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. The showing can be verified by using the attached petition form which includes a declaration according to 37 C.F.R. §1.68. Statements from all persons who contributed to the delay are also required.

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

cc:
LOUISE J. WANNIER
1446 ROSE VILLA STREET
PASADENA, CA 91106

Encl: Statement under 37 C.F.R. §3.73(b)

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JJGJr.: 09-05

Paper No. 15

IRELL & MANELLA
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES CA 90067

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Patent No. 5,850,522	:	
Issued: 15 December, 1998	:	
Application No. 08/633,839	:	DECISION ON PETITION
Filed: 10 April, 1996	:	
Attorney Docket No.: 29815.0800	:	

This is a decision on the petition filed on ~~12 July~~ 25 August, 2005, under 37 C.F.R. §1.378(b) to accept as unavoidably delayed the maintenance fee for Patent No. 5,850,522 (the '522 patent).

NOTE: There is no indication of record that Petitioner herein ever was empowered in the instant matter. If Petitioner desires to receive future correspondence regarding this matter, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner must submit a fully executed certificate under 37 C.F.R. 3.73(b) (copy enclosed) evidencing Petitioner's rights to/in the instant matter.

The petition is **DISMISSED**.

NOTES:

(1) If reconsideration of this decision is desired, a petition for reconsideration under 37 C.F.R. §1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 C.F.R. §1.136(a) or (b).

Any such petition for reconsideration must be accompanied by the petition fee as set forth in 37 C.F.R. §1.17(h).

The petition for reconsideration should include an exhaustive attempt to provide the items noted below as lacking.

Thereafter, there will be no further reconsideration or review of the matter undertaken by the Commissioner.

I. BACKGROUND

This patent, which was filed originally on 10 April, 1996, as Application No. 08/633,839, issued on 15 December, 1998, as Patent No. 5,850,522 (the '522 patent). Payment of the first maintenance fee was not timely made. And the twenty-four month period following expiration has elapsed. Therefore, Petitioner's only remedy is a petition under 37 C.F.R. §1.378(b).

Payment Windows

As to the first maintenance fee:

- the first window–for payment of the maintenance fee alone–opened on 15 December, 2001, and closed after midnight Monday, 15 June, 2002;
- the second window–for payment of the maintenance fee and small surcharge–opened on Tuesday, 16 June, 2002, and closed after midnight Monday, 16 December, 2002;
- the third window–for payment of the maintenance fee and the surcharge in connection with an allegation of unintentional delay–opened on Tuesday, 17 December, 2002, and closed after midnight 15 December, 2004;
- the fourth window–for payment of the maintenance fee and the surcharge in connection with an allegation of unavoidable delay–also opened on 17 December, 2002.

Summary of Argument

NOTE: Petitioner requests: "PLEASE KEEP THIS STATEMENT PRIVATE."

However, as Petitioner is well aware, upon issue patent application files are public record, and are therefore open to the public and may be available via the Internet.

Reference is made to the illness of Petitioner and to a bankruptcy event. However, while the medical details are not necessarily pertinent, the exact time periods are required, as are details that indicate how theses event involving Petitioner, who was not the inventor and does not appear to have been an assignee, nonetheless triggered the non-payment of the maintenance fee herein

In this regard, Petitioner is reminded again that patent application files, should they proceed to issue, become public record, and Petitioner may wish to redact private health information, financial accounts information and the like before submission and may wish to substitute such redacted materials with the evidentiary focus as the dates of event for documents submitted and otherwise seek expungement of such private data from Petitioner's application(s).

The sum and substance of the argument presented is that financial collapse of the businesses and Petitioner's subsequent diagnosis with and chemotherapy treatment for cancer prevented the maintenance fee from being paid when due.

Petitioner needs to present a calendar of events commencing on the date when the window opened for payment (December 2001) and through the filing of the instant petition detailing events (with documentation supporting the allegations and calendar) which so resulted in the non-payment of the maintenance fee when due.

Thus, the record is silent and needs to be completed with regard to narrative of events including but not limited to:

- the calendar of events;
- evidence that payment of the maintenance fee was properly calendared;

- identification of an statements from the parties responsible for calendaring and paying the maintenance fees; and
- documents evidencing the adverse financial and health conditions Petitioner alleges resulted in the non-payment of the maintenance fees.

II. STATUES, REGULATIONS, ANALYSIS

Congress has provided in statute as follows:

35 U.S.C. 41 Patent fees; patent and trademark search systems.
(a) GENERAL FEES. — The Director shall charge the following fees:

* * *

(b) MAINTENANCE FEES. — The Director shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:
(1) 3 years and 6 months after grant, $***.
(2) 7 years and 6 months after grant, $*,***.
(3) 11 years and 6 months after grant, $*,***.

Unless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period. The Director may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee.

* * *

The regulations at 37 C.F.R. §1.362 provide in pertinent part:

§ 1.362 Time for payment of maintenance fees.
(a) Maintenance fees as set forth in §§ 1.20(e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.

* * *

(d) Maintenance fees may be paid in patents without surcharge during the periods extending respectively from:
(1) 3 years through 3 years and 6 months after grant for the first maintenance fee,

(2) 7 years through 7 years and 6 months after grant for the second maintenance fee, and
(3) 11 years through 11 years and 6 months after grant for the third maintenance fee.

(e) Maintenance fees may be paid with the surcharge set forth in § 1.20(h) during the respective grace periods after:
(1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.
(2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the second maintenance fee, and
(3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.

(f) If the last day for paying a maintenance fee without surcharge set forth in paragraph (d) of this section, or the last day for paying a maintenance fee with surcharge set forth in paragraph (e) of this section, falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the maintenance fee and any necessary surcharge may be paid under paragraph (d) or paragraph (e) respectively on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.

(g) Unless the maintenance fee and any applicable surcharge is paid within the time periods set forth in paragraphs (d), (e) or (f) of this section, the patent will expire as of the end of the grace period set forth in paragraph (e) of this section. A patent which expires for the failure to pay the maintenance fee will expire at the end of the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant.

(h) The periods specified in §§1.362(d) and (e) with respect to a reissue application, including a continuing reissue application thereof, are counted from the date of grant of the original non-reissue application on which the reissued patent is based. (Emphasis supplied.)

* * *

The regulations at 37 C.F.R. §1.378 provide in pertinent part:

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

(a) The Commissioner may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Commissioner to have been unavoidable (paragraph (b) of this section) or unintentional (paragraph (c) of this section) and if the surcharge required by § 1.20(I) is paid as a condition of accepting payment of the maintenance fee. If the Commissioner accepts payment of the maintenance fee upon petition, the patent shall be considered as not having

expired, but will be subject to the conditions set forth in 35 U.S.C. 41(c)(2).
(b) Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:

(1) The required maintenance fee set forth in § 1.20 (e) through (g);
(2) The surcharge set forth in § 1.20(I)(1); and
(3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

* * *

(d) Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. (e) Reconsideration of a decision refusing to accept a maintenance fee upon petition filed pursuant to paragraph (a) of this section may be obtained by filing a petition for reconsideration within two months of, or such other time as set in, the decision refusing to accept the delayed payment of the maintenance fee. Any such petition for reconsideration must be accompanied by the petition fee set forth in § 1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. If the delayed payment of the maintenance fee is not accepted, the maintenance fee and the surcharge set forth in § 1.20(I) will be refunded following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Any petition fee under this section will not be refunded unless the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

The commentary at MPEP §2506 states in pertinent part:

2506 Times for Submitting Maintenance Fee Payments [R-2]

Maintenance fees <u>cannot</u> be paid in advance since 35 U.S.C. §41(f) permits maintenance fees to be adjusted every year on October 1 to reflect any fluctuations during the previous 12 months in the Consumer Price Index as determined by the Secretary of Labor.

37 C.F.R. §1.362(d) sets forth the time periods when the maintenance fees for a

utility patent can be paid without surcharge. Those periods, referred to generally as the "window period," are the 6-month periods preceding each due date. The "due dates" are defined in 35 U.S.C. §41(b). The window periods are (1) 3 years to 3 ½ years after the date of issue for the first maintenance fee payment, (2) 7 years to 7 ½ years after the date of issue for the second maintenance fee payment, and (3) 11 years to ½ years after the date of issue for the third and final maintenance fee payment. A maintenance fee paid on the last day of a window period can be paid without surcharge. The last day of a window period is the same day of the month the patent was granted 3 years and 6 months, 7 years and 6 months, or 11 years and 6 months after grant of the patent.

37 C.F.R. §1.362(e) sets forth the time periods when the maintenance fees for a utility patent can be paid with surcharge. Those periods, referred to generally as the "grace period," are the 6-month periods immediately following each due date. The grace periods are (1) 3 ½ years and through the day of the 4th anniversary of the grant of the patent, (2) 7 ½ years and through the day of the 8th anniversary of the grant of the patent and, (3) 11 ½ years and through the day of the 12th anniversary of the grant of the patent. A maintenance fee may be paid with the surcharge on the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant to prevent the patent from expiring.

The commentary at MPEP §2590 states in pertinent part:

2590 Acceptance of Delayed Payment of Maintenance Fee in Expired Patent to Reinstate Patent [R-2] - 2500 Maintenance Fees

* * *

UNAVOIDABLE DELAY

* * *

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. <u>Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement</u>.

* * *

Thus, evidence that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid, could be submitted in support of an argument that the delay in payment was unavoidable. <u>For example, an error in a docketing</u>

> system could possibly result in a finding that a delay in payment was unavoidable if it were shown that reasonable care was exercised in designing and operating the system and that the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fees. (Emphasis supplied.)
>
> * * *

No documents and/or statements have been made of record as to the party responsible–Petitioner states that it was the patent holder–for payment of the maintenance fee.

Payment Windows

- within the first window–for payment of the maintenance fee alone–opened on 15 December, 2001, and closed after midnight Monday, 15 June, 2002, as of this writing Petitioner's showing is insufficient;
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- at the opening of the fourth window–for payment of the maintenance fee and the surcharge in connection with an allegation of unavoidable delay–also opened on Tuesday, 17 December, 2002, in order to satisfy the burden of proof herein, Petitioner would have had to make an adequate showing in one or more of the three periods above, and, as of this writing Petitioner's showing is insufficient.

Direct Evidence

Petitioner must "provide any *direct evidence* proving exactly"[1] what records and systems were in place to satisfy the showing required under 37 C.F.R. §1.378(b). As the court found in Krahn:

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[1] See: Krahn v. Commissioner, 15 USPQ2d 1823 (E.D. Va. 1990).

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

cc:
LOUISE J. WANNIER
1446 ROSE VILLA STREET
PASADENA, CA 91106

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JJGJr.: 09-06

Paper No. 17

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OFFICE OF PETITIONS

IRELL & MANELLA
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES CA 90067

In re Patent No. 5,850,522	:	
Issued: 15 December, 1998	:	
Application No. 08/633,839	:	DECISION ON PETITION
Filed: 10 April, 1996	:	
Attorney Docket No.: 29815.0800	:	

This is a decision on the petition filed on 29 November, 2005, under 37 C.F.R. §1.378(b) to accept as unavoidably delayed the maintenance fee for Patent No. 5,850,522 (the '522 patent).

The Office regrets the delay in addressing this matter, however, the file was received by the attorneys in the Office of Petitions only at this writing.

PLEASE NOTE:

There is no indication of record as of this writing that Petitioner herein ever was empowered in the instant matter. If Petitioner desires to receive future correspondence regarding this matter, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition is **GRANTED**.

I. BACKGROUND

This patent, which was filed originally on 10 April, 1996, as Application No. 08/633,839, issued on 15 December, 1998, as Patent No. 5,850,522 (the '522 patent). Payment of the first maintenance fee was not timely made. And the twenty-four month period following expiration has elapsed. Therefore, Petitioner's only remedy is a petition under 37 C.F.R. §1.378(b).The original petition, filed on 22 August, 2005, was dismissed on 29 September, 2005. The instant petition seeks to cure earlier deficiencies.

Accordingly:

- the first maintenance fee and surcharge, which were tendered on 22 August, 2005, have been charged and now are allocated and accepted at the then current amount;
- moreover, the second maintenance fee, which was tendered on 22 (and 25) August, 2005, and entered into the accounting on 6 January, 2006, also has been charged and now is allocated and accepted at the then current amount; and
- the above-identified patent hereby is reinstated as of the mail date of this decision.

This file is being returned to Files Repository.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

cc:
LOUISE J. WANNIER
1446 ROSE VILLA STREET
PASADENA, CA 91106

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PAPER NO. 18

LOUISE J. WANNIER
LJM SOFTWARE, INC.
1446 ROSE VILLA STREET
PASADENA, CA 91106

COPY MAILED

MAY 29 2007

OFFICE OF PETITIONS

In re Patent No. 5,850,522	:	
Issue Date: December 15, 1998	:	
Application No. 08/633,839	:	DECISION ON PETITION
Filed: April 10, 1996	:	UNDER 37 CFR 1.378(b)
Attorney Docket No. P01004US	:	
Patentee(s): Scott Wlaschin	:	

CORRECTED DECISION

The Petition Decision mailed on January 9, 2007 for the above-identified patent is hereby VACATED.

This is a CORRECTED decision replacing the decision mailed on January 9, 2007 on the RENEWED petition under 37 CFR 1.378(b), filed November 29, 2005, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A first petition to revive under 37 CFR 1.378(b) was filed on August 22, 2005 and was dismissed on November 4, 2005.

A second petition decision was mailed on January 9, 2007. While the petition decision dated January 9, 2007 stated that the decision was in response to a petition filed on November 29, 2005, the file record shows no such petition on that date.

An investigation reveals that petitioner submitted a document on December 5, 2005 for a renewed petition under 37 CFR 1.378(b) purportedly for three patents numbers 5,893,087, 5,850,522, and 5,790,848. This is not acceptable. 37 CFR 1.4(b) states that "each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical." Accordingly, USPTO recorded the communication filed on December 5, 2005 with the first listed patent number 5,893,087. No separate copy of the renewed petition has been recorded with the second or third listed patent numbers.

Since there is evidence that petitioner attempted to renew the petition decision dated September 29, 2005, petitioner should promptly file a separate copy of the renewed petition with the appropriate identifier(s) in the instant patent, i.e. do not combine petitions for different patents in one communication. Before submitting a renewed petition in the instant case, it is recommended that petitioner review the contemporaneous decision in response to the petition filed on December 5, 2005 in patent number 5,893,087.

Since the petition decision dated January 9, 2007 has been vacated and in view of the present corrected decision, the status of this patent is EXPIRED. If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** Petitioner is reminded that any renewed petition and the required fee(s) should be filed separately for each patent desiring reconsideration.

Petitioner is also reminded that pursuant to 37 CFR 1.2 all business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

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

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

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

Any questions concerning this matter may be directed to Amelia Au at (571) 272-7414.

Charles Pearson
Director
Office of Petitions

Cc: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JJGJr.: 10-05

Paper No. 13

IRELL & MANELLA
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LOS ANGELES CA 90067

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Patent No. 5,893,087	:	
Issued: 6 April, 1999	:	
Application No. 08/633,842	:	DECISION ON PETITION
Filed: 10 April, 1996	:	
Attorney Docket No.: P01003US	:	

This is a decision on the petition filed on 22 August, 2005, under 37 C.F.R. §1.378(b) to accept as unavoidably delayed the maintenance fee for Patent No. 5,893,087 (the '087 patent).

PLEASE NOTE:

There is no indication of record that Petitioner herein ever was empowered in the instant matter. If Petitioner desires to receive future correspondence regarding this matter, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner must submit a fully executed certificate under 37 C.F.R. 3.73(b) (copy enclosed) evidencing Petitioner's rights to/in the instant matter.

The petition is **DISMISSED**.

NOTES: If reconsideration of this decision is desired, a petition for reconsideration under 37 C.F.R. §1.378(e) must be filed within TWO (2) MONTHS from

the mail date of this decision. See: 37 C.F.R. §1.136(a) or (b) regarding extension(s) of time.

Any such petition for reconsideration must be accompanied by the petition fee as set forth in 37 C.F.R. §1.17(h).

The petition for reconsideration should include an exhaustive attempt to provide the items noted below as lacking.

Thereafter, there will be no further reconsideration or review of the matter undertaken by the Commissioner.

I. BACKGROUND

This patent, which was filed originally on 10 April, 1996, as Application No. 08/633,842, issued on 6 April, 1999, as Patent No. 5,893,087 (the '087 patent). Payment of the first maintenance fee was not timely made. And the twenty-four month period following expiration has elapsed. Therefore, Petitioner's only remedy is a petition under 37 C.F.R. §1.378(b).

Payment Windows

As to the first maintenance fee:

- the first window–for payment of the maintenance fee alone–opened on 6 April (effectively, Monday, 8 April), 2002, and closed after midnight Monday, 7 October, 2002;
- the second window–for payment of the maintenance fee and small surcharge–opened on Tuesday, 8 October, 2002, and closed after midnight Monday, 7 April, 2003;
- the third window–for payment of the maintenance fee and the surcharge in connection with an allegation of unintentional delay–opened on Tuesday, 8 April, 2003, and closed after midnight 6 April, 2005;
- the fourth window–for payment of the maintenance fee and the surcharge in connection with an allegation of unavoidable delay–also opened on Tuesday, 8 April, 2003.

Summary of Argument

NOTE: Petitioner requests: "PLEASE KEEP THIS STATEMENT PRIVATE."

However, as Petitioner is well aware, upon issue patent application files are public record, and are therefore open to the public and may be available via the Internet.

Reference is made to the illness of Petitioner and to a bankruptcy event. However, while the medical details are not necessarily pertinent, the exact time periods are required, as are details that indicate how theses events involving Petitioner, who was not the inventor and does not appear to have been an assignee, nonetheless triggered the non-payment of the maintenance fee herein

In this regard, Petitioner is reminded again that patent application files, should they proceed to issue, become public record, and Petitioner may wish to redact private health information, financial accounts information and the like before submission and may wish to substitute such redacted materials with the evidentiary focus as the dates of event for documents submitted and otherwise seek expungement of such private data from Petitioner's application(s).

The sum and substance of the argument presented is that financial collapse of the businesses and Petitioner's subsequent diagnosis with and chemotherapy treatment for cancer prevented the maintenance fee from being paid when due.

Petitioner needs to present a calendar of events commencing on the date when the window opened for payment (April 2002) and through the filing of the instant petition detailing events (with documentation supporting the allegations and calendar) which so resulted in the non-payment of the maintenance fee when due.

Thus, the record is silent and needs to be completed with regard to narrative of events including but not limited to:

- the calendar of events;
- evidence that payment of the maintenance fee was properly calendared;
- identification of an statements from the parties responsible for calendaring and paying the

maintenance fees; and

- documents evidencing the adverse financial and health conditions Petitioner alleges resulted in the non-payment of the maintenance fees.

II. STATUES, REGULATIONS, ANALYSIS

Congress has provided in statute as follows:

35 U.S.C. 41 Patent fees; patent and trademark search systems.
(a) GENERAL FEES. — The Director shall charge the following fees:

* * *

(b) MAINTENANCE FEES. — The Director shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:
(1) 3 years and 6 months after grant, $***.
(2) 7 years and 6 months after grant, $*,***.
(3) 11 years and 6 months after grant, $*,***.

Unless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period. The Director may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee.

* * *

The regulations at 37 C.F.R. §1.362 provide in pertinent part:

§ 1.362 Time for payment of maintenance fees.
(a) Maintenance fees as set forth in §§ 1.20(e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.

* * *

(d) Maintenance fees may be paid in patents without surcharge during the periods extending respectively from:
(1) 3 years through 3 years and 6 months after grant for the first maintenance fee,
(2) 7 years through 7 years and 6 months after grant for the second

maintenance fee, and
(3) 11 years through 11 years and 6 months after grant for the third maintenance fee.

(e) Maintenance fees may be paid with the surcharge set forth in § 1.20(h) during the respective grace periods after:
(1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.
(2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the second maintenance fee, and
(3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.

(f) If the last day for paying a maintenance fee without surcharge set forth in paragraph (d) of this section, or the last day for paying a maintenance fee with surcharge set forth in paragraph (e) of this section, falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the maintenance fee and any necessary surcharge may be paid under paragraph (d) or paragraph (e) respectively on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.

(g) Unless the maintenance fee and any applicable surcharge is paid within the time periods set forth in paragraphs (d), (e) or (f) of this section, the patent will expire as of the end of the grace period set forth in paragraph (e) of this section. A patent which expires for the failure to pay the maintenance fee will expire at the end of the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant.

(h) The periods specified in §§1.362(d) and (e) with respect to a reissue application, including a continuing reissue application thereof, are counted from the date of grant of the original non-reissue application on which the reissued patent is based. (Emphasis supplied.)

* * *

The regulations at 37 C.F.R. §1.378 provide in pertinent part:

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

(a) The Commissioner may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Commissioner to have been unavoidable (paragraph (b) of this section) or unintentional (paragraph (c) of this section) and if the surcharge required by § 1.20(I) is paid as a condition of accepting payment of the maintenance fee. If the Commissioner accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired, but will be subject to the conditions set forth in 35 U.S.C. 41(c)(2).

(b) Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:

(1) The required maintenance fee set forth in § 1.20 (e) through (g);
(2) The surcharge set forth in § 1.20(I)(1); and
(3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

* * *

(d) Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. (e) Reconsideration of a decision refusing to accept a maintenance fee upon petition filed pursuant to paragraph (a) of this section may be obtained by filing a petition for reconsideration within two months of, or such other time as set in, the decision refusing to accept the delayed payment of the maintenance fee. Any such petition for reconsideration must be accompanied by the petition fee set forth in § 1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. If the delayed payment of the maintenance fee is not accepted, the maintenance fee and the surcharge set forth in § 1.20(I) will be refunded following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Any petition fee under this section will not be refunded unless the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

The commentary at MPEP §2506 states in pertinent part:

2506 Times for Submitting Maintenance Fee Payments [R-2]

Maintenance fees <u>cannot</u> be paid in advance since 35 U.S.C. §41(f) permits maintenance fees to be adjusted every year on October 1 to reflect any fluctuations during the previous 12 months in the Consumer Price Index as determined by the Secretary of Labor.

37 C.F.R. §1.362(d) sets forth the time periods when the maintenance fees for a utility patent can be paid without surcharge. Those periods, referred to generally

as the "window period," are the 6-month periods preceding each due date. The "due dates" are defined in 35 U.S.C. §41(b). The window periods are (1) 3 years to 3 ½ years after the date of issue for the first maintenance fee payment, (2) 7 years to 7 ½ years after the date of issue for the second maintenance fee payment, and (3) 11 years to ½ years after the date of issue for the third and final maintenance fee payment. A maintenance fee paid on the last day of a window period can be paid without surcharge. The last day of a window period is the same day of the month the patent was granted 3 years and 6 months, 7 years and 6 months, or 11 years and 6 months after grant of the patent.

37 C.F.R. §1.362(e) sets forth the time periods when the maintenance fees for a utility patent can be paid with surcharge. Those periods, referred to generally as the "grace period," are the 6-month periods immediately following each due date. The grace periods are (1) 3 ½ years and through the day of the 4th anniversary of the grant of the patent, (2) 7 ½ years and through the day of the 8th anniversary of the grant of the patent and, (3) 11 ½ years and through the day of the 12th anniversary of the grant of the patent. A maintenance fee may be paid with the surcharge on the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant to prevent the patent from expiring.

The commentary at MPEP §2590 states in pertinent part:

2590 Acceptance of Delayed Payment of Maintenance Fee in Expired Patent to Reinstate Patent [R-2] - 2500 Maintenance Fees

* * *

UNAVOIDABLE DELAY

* * *

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. <u>Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement</u>.

* * *

Thus, evidence that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid, could be submitted in support of an argument that the delay in payment was unavoidable. <u>For example, an error in a docketing system could possibly result in a finding that a delay in payment was unavoidable</u>

> if it were shown that reasonable care was exercised in designing and operating the system and that the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fees. (Emphasis supplied.)

* * *

No documents and/or statements have been made of record as to the party responsible–Petitioner states that it was the patent holder–for payment of the maintenance fee.

Payment Windows

As to whether Petitioner or party with demonstrable responsibility therefor had in place a system to ensure payment of the first maintenance fee when due for the instant patent:

- within the first window–for payment of the maintenance fee alone–opened on Monday, 8 April, 2002, and closed after midnight Monday, 7 October, 2002, as of this writing Petitioner's showing is insufficient;

- within the second window–for payment of the maintenance fee and small surcharge–opened on Tuesday, 8 October, 2002, and closed after midnight Monday, 7 April, 2003, as of this writing Petitioner's showing is insufficient;

- at the opening within the third window–for payment of the maintenance fee and the surcharge in connection with an allegation of unintentional delay–opened on Tuesday, 8 April, 2003, and closed after midnight 6 April, 2005, as of this writing Petitioner's showing is insufficient;

- at the opening of the fourth window–for payment of the maintenance fee and the surcharge in connection with an allegation of unavoidable delay–also opened on Tuesday, 8 April, 2003, in order to satisfy the burden of proof herein, Petitioner would have had to make an adequate showing in one or more of the three periods above, and, as of this writing Petitioner's showing is insufficient.

Direct Evidence

Petitioner must "provide any *direct evidence* proving exactly"[1] what records and systems were in place to satisfy the showing required under 37 C.F.R. §1.378(b). As the court found in Krahn:

> The Commissioner did not abuse his discretion in ruling that this evidence was insufficient to prove an unavoidable delay * * * . The * * * procedure[s] set out in the PTO regulations were specifically designed to provide patent applicants with a clear procedure to protect themselves from exactly the situation which has arisen in this case. Plaintiff failed to follow these procedures. The Commissioner properly ruled that the alternative means employed by the plaintiff were inadequate * * * . Plaintiff still failed to provide any direct evidence proving exactly [his allegations]. The procedures set out in the PTO's regulations are designed to provide the type of direct evidence needed * * * . Had plaintiff's counsel followed these procedures, as a 'prudent and careful man' would have done in conducting 'his most important business,' then he would have been able to produce sufficient evidence to support a showing of unavoidable delay." (Emphasis supplied.)[2]

Duty of Candor

Petitioners always are reminded of the burden of those registered to practice *and* all others who make representations before the Office, *inter alia*, to inquire into the underlying facts of representations made to the Office.[3]

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[1] See: Krahn v. Commissioner, 15 USPQ2d 1823 (E.D. Va. 1990).

[2] Krahn, at 1825.

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

The regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any

III. CONCLUSION

Petitioner's factual showing (narrative (with statements/declarations by persons with first-hand knowledge of events and transactions) and documentary) is, as of this writing, insufficient.

Accordingly, as of this writing, Petitioner has failed to make the showing necessary under the regulation, and the petition under 37 C.F.R. §1.378(b) hereby is **dismissed**.

In any future filing, this showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application, and documents regarding the alleged cause of the delay and copies of any documents referred to in Petitioner's statement as to the cause of the unavoidable delay are required. All the causes which contributed to the failure to timely pay the maintenance fee must be presented and supported with appropriate evidence.[4] (In general, a Petitioner should identify the party(ies) responsible for making the payment: A showing must be made (with supporting documents) outlining the efforts made to ensure timely payment of the maintenance fee--including scheduling and calendaring information, appointment of an individual with the authority and responsibility to pay the fee, and detailing of the causes for a failure in that process.)

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false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] The showing must also enumerate the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. The showing can be verified by using the attached petition form which includes a declaration according to 37 C.F.R. §1.68. Statements from all persons who contributed to the delay are also required.

Further correspondence with respect to this matter should be addressed as follows:[5]

By mail: Commissioner for Patents[6]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

cc:
LOUISE J. WANNIER
1446 ROSE VILLA STREET
PASADENA, CA 91106

Encl: Statement under 37 C.F.R. §3.73(b)

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[5] On July 15, 2005, the Central Facsimile (FAX) Number changed from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number were routed to the new number only until September 15, 2005. After September 15, 2005, the old number is no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[6] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

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OFFICE OF PETITIONS

In re Patent No. 5,893,087	:	
Issued: 6 April, 1999	:	
Application No. 08/633,842	:	DECISION ON PETITION
Filed: 10 April, 1996	:	
Attorney Docket No.: P01003US	:	

This is a decision on the petition filed on 9 January, 2006, under 37 C.F.R. §1.378(b) to accept as unavoidably delayed the maintenance fee for Patent No. 5,893,087 (the '087 patent).

The Office regrets the delay in addressing this matter, however, the file was received by the attorneys in the Office of Petitions only at this writing.

PLEASE NOTE:

There is no indication of record that Petitioner herein ever was empowered in the instant matter. If Petitioner desires to receive future correspondence regarding this matter, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Petitioner must submit a fully executed certificate under 37 C.F.R. 3.73(b) (copy enclosed) evidencing Petitioner's rights to/in the instant matter.

The petition is **GRANTED**.

I. BACKGROUND

This patent, which was filed originally on 10 April, 1996, as Application No. 08/633,842, issued on 6 April, 1999, as Patent No. 5,893,087 (the '087 patent). Payment of the first maintenance fee was not timely made. And the twenty-four month period following expiration has elapsed. Therefore, Petitioner's only remedy is a petition under 37 C.F.R. §1.378(b). The original petition filed on 22 August, 2005, was dismissed on 4 November, 2006. The instant petition seeks to cure earlier deficiencies

Accordingly:

- the first maintenance fee and surcharge, which were tendered on 22 August, 2005, have been charged and now are allocated and accepted at the then current amount;
- moreover, the second maintenance fee, which was tendered on 22 August, 2005, and entered into the accounting on 6 January, 2006, also has been charged and now is allocated and accepted at the then current amount; and
- the above-identified patent hereby is reinstated as of the mail date of this decision.

This file is being returned to Files Repository.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

cc:
LOUISE J. WANNIER
1446 ROSE VILLA STREET
PASADENA, CA 91106

Encl: Statement under 37 C.F.R. §3.73(b)
Maintenance Fee Address Form

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[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

Document (E)

PTO/SB/96 (09-04)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: LJM Software, Inc./Louise J. Wannier

Application No./Patent No.: 6,163,775 Filed/Issue Date: Filed 3/15/98 Issued 12/19/2000

Entitled:

LJM Software, Inc, a CORPORATION
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____%

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Dex Information Systems To: Enfish, Inc.
The document was recorded in the United States Patent and Trademark Office at
Reel 010795, Frame 0227, or for which a copy thereof is attached. recorded 05/05/2000

2. From: Enfish, Inc. To: ENFISH CORPORATION
The document was recorded in the United States Patent and Trademark Office at Nov. 2001
Reel _____, Frame _____, or for which a copy thereof is attached. Document C.

3. From: Enfish CORPORATION To: LJM Software, Inc. -- Document A.
The document was recorded in the United States Patent and Trademark Office at June 4, 2004
Reel _____, Frame _____, or for which a copy thereof is attached. Document B.

☒ Additional documents in the chain of title are listed on a supplemental sheet.

☒ Copies of assignments or other documents in the chain of title are attached. Document A is a copy of the filing.
[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature: [signature] Date: December 5, 2005

Printed or Typed Name: LOUISE J. WANNIER Telephone Number: 626 675 8541

Title: Incorporator, President LJM Software, Inc.

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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PAPER NO. 16

LOUISE J. WANNIER
LJM SOFTWARE, INC.
1446 ROSE VILLA STREET
PASADENA, CA 91106

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MAY 29 2007

OFFICE OF PETITIONS

In re Patent No. 5,893,087 :
Issue Date: April 6, 1999 :
Application No. 08/633,842 : DECISION ON PETITION
Filed: April 10, 1996 : UNDER 37 CFR 1.378(b)
Attorney Docket No. P01003US :
Patentee(s): Scott Wlaschin, Robert Gordon, :
Louise J. Wannier, and Clay Gordon

CORRECTED DECISION

The Petition Decision mailed on September 11, 2006 for the above-identified patent is hereby VACATED.

This is a CORRECTED decision replacing the decision mailed on September 11, 2006 on the RENEWED petition under 37 CFR 1.378(b), filed December 5, 2005[1], to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

A first petition to revive under 37 CFR 1.378(b) was filed on August 22, 2005 and was dismissed on November 4, 2005. A renewed petition[2] was filed on December 5, 2005.

The petition is **DISMISSED**.

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[1] The decision mailed on September 11, 2006 stated that it is in response to the petition filed on January 9, 2006. The date of January 9, 2006 is in error and it should have been stated as December 5, 2005.

[2] Petitioner submitted information supporting the renewed petition for three patents (P.N. 5,893,087, 5,850,522, and 5,790,848) in one combined document. This is not acceptable. 37 CFR 1.4(b) states that "each file must be complete in itself, a separate copy of every paper to be filed in a patent, patent file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical." The renewed petition dated December 5, 2005 has been filed in the first listed patent number 5,893,087. If petitioner wishes to renew the petition in the other two patents, then petitioner must file a separate copy for each appropriate file.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued on April 6, 1999. The first maintenance fee could have been paid from April 6, 2002, through October 7, 2002, or with a surcharge during the period from October 8, 2002 through April 7, 2003. Accordingly, the patent expired at midnight April 6, 2003, for failure to timely submit the first maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This renewed petition still lacks item (1) above.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

Petitioner states that the delay in payment of the first maintenance fee was unavoidable due to the bankruptcy of Enfish Corporation in October 2004 and the petitioner's subsequent diagnosis and treatment for cancer during various times from May 2003 thru February 2005.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or

greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra.

In essence, petitioner must show that she was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment.

Petitioner states in the renewed petition filed on December 5, 2005 that the Enfish Inc.'s CFO Mark Bucklin and the company's patent attorneys Morrison and Foerster (Morrison) were the responsible party for calendaring and tracking the maintenance fee payments and making the required payment. Around mid-2002, Morrison stopped working for Enfish and terminated all communications due to unpaid bills amounting to approximately $50,000. Enfish became insolvent around August 2002 and completed Chapter 7 bankruptcy around October 2004.

The start of the window for making the first maintenance fee payment was April 8, 2002. However, the record states that Morrison terminated their relationship around mid-2002 which was after the start of the period when the first maintenance fee could have been paid. In other words, before the start of the maintenance fee payment window (April 8, 2002), Morrison and Enfish still had a working relationship, therefore one would assume that if Morrison was the party responsible for tracking the payment dates, they would have informed Enfish prior to April 8, 2002 that the maintenance fees would have been due. Therefore if Morrison and/or Enfish's CFO were the responsible party for calendaring the appropriate maintenance fee payments, petitioner should submit any documentary proof of the maintenance fee payment tracking system used by Morrison and/or the Enfish CFO along with evidence of the steps in place for ensuring payment of the maintenance fee was timely.

While the petition states that petitioner relied on Enfish's CFO and Morrison for tracking and making the maintenance fee payment, Petitioner also clearly stated the Enfish along with petitioner did NOT have knowledge that maintenance fees were due[2]. **Even assuming that Morrison properly calendared the required maintenance fee due dates, there is no evidence on record that Enfish or petitioner had continued to track or calendar the required maintenance fees payment or had steps in place to ensure the timely payment of the first maintenance fee after Morrison terminated their relationship in mid-2002.** Therefore, the record shows that from mid-2002 and during the period when the maintenance fee could have been paid from April 8, 2002 thru April 7, 2003, petitioner had no steps in place and did not take any reasonable care to ensure that the maintenance fee would be timely paid to prevent expiration of the patent. Since no steps were taken by patentee, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee.

While the evidence does show that Enfish had financial difficulties during the time the maintenance fee payments could have been paid, petitioner admits to the total lack of knowledge of having to pay the maintenance fee as stated in the record[3] and as evidenced by the fact that the maintenance fee payment was not included as a necessary or priority payment in the company's bankruptcy statements.

While it is not clear on the record the exact time frame and circumstances that petitioner first realized that the patent expired, petitioner stated she did not review the patent until *after* the completion of the main part of her medical treatments and *after* the completion of the Enfish bankruptcy because she was unaware that the patent had lapsed[4].

Unfortunately, any delay resulting from the actions or inactions of the patentee is binding upon petitioners as the successors in title. See Winkler v. Ladd, 221 F.Supp. 550, 552, 138 USPQ 666, 667 (D.D.C. 1963). While petitioner gained ownership of this patent on June 2004, such merely gave petitioners standing to file the instant petition on or after that date. The delay resulting from their lack of knowledge of the need to pay maintenance fees does not excuse their delay. *See* Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff'd*, Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), *aff'd*, 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied*, 502 U.S. 1075 (1992). Lastly, that one may have subsequently exercised diligence after their assumption of title and belated awareness of the need to pay the fee does not convert the preceding delay into unavoidable delay. See Kim v. Quigg, 718 F.Supp. 1280, 12 USPQ2d 1604 (E.D. Va 1989).

---

[2] "If the company had known that maintenance payments were due subsequent to this time [mid-2002], the company would have included these payments in the priority amounts that is made during the workout and transition to bankruptcy." From first paragraph on page 4 of the renewed petition dated December 5, 2005.

[3] "If I, as incorporator and responsible party for LJM Software had known of the unintentional reinstatement period and the nonpayment of the maintenance fees, they would have been paid." From second paragraph on page 4 of the renewed petition dated December 5, 2005.

[4] "During this time [treatment for cancer May 2003], I was completely unaware that the patent payments had lapsed because I received no mailing from the patent offices, the Enfish attorneys ceased correspondence due to their being owed money by the company and it was not until subsequent to the completion of the main part of the treatments and the completion of the Enfish bankruptcy that I reviewed the patents and discovered that they were in arrears." From second paragraph on page 6 of the renewed petition dated December 5, 2005.

Assuming that petitioner first discovered the expired patent in June 2004, when the petitioner's company LJM Software acquired the patent rights from Enfish, or even in October 2004 after the completion of the Enfish bankruptcy, no action was taken with regard to the maintenance fee or the lapsed patent until March 15, 2005 when petitioner meet with Mr. Kevin Spivak of Morrison about reinstating the expired patents. Petitioner submitted a document (attachment F) provided by Morrison to her which indicated an abandonment date of May 7, 2003 which she relied upon as the date from which the patent may be reinstated. A review of document F indicated no inaccuracies with regard to the data. While May 7, 2003 is listed as the abandonment date for the application, there is no correlation between the abandonment date and the date from which to reinstate the patent.

Petitioner credits the delay (from mid-2004 until August 22, 2005) in filing the petition promptly after being aware or notified of the expiration of the patent was due to her medical surgeries and her recuperation. While the record states that petitioner underwent numerous medical treatments, it did not appear to interfere with petitioner's other business dealings. The record shows that during the periods between the surgeries and/or treatments, petitioner was able to complete her other business affairs including having LJM Software legally acquire the assets of Enfish in June 4, 2004 and the work leading to the completion of the Enfish bankruptcy from August 2002 thru October 20, 2004. Therefore, evidence of record shows that petitioner was able to handle other business affairs during the periods between her stated surgeries which coincide with the time period when the delayed maintenance fee payment could have been made.

As to the health problems, petitioner should note that under the circumstances of this case, she will have to provide documents from licensed health care providers, demonstrating the nature and extent of petitioner's incapacitation, in such a manner that petitioner was, from the date of expiry until the filing of the initial petition on August 22, 2005, "unavoidably" prevented from taking any earlier action with respect to this patent. Additionally, petitioner must state how she managed to conduct her daily personal and business affairs, including scheduling and settlement of short and long term debts and business obligations, bills, rent or mortgage payments, income taxes etc., during the time in question. Petitioner must demonstrate that the health problems were such as to cause the payment of the maintenance fee to have been unavoidably delayed.

Furthermore, petitioner admits that while she was concerned with recovering her health during the period when the patent expired, she was also unaware that the patent payments had lapsed because she received no communications regarding the maintenance fee from the USPTO or from Morrison. In order words, petitioner had no steps in place for paying the maintenance fees from mid-2002 until the date of the first petition on August 22, 2005. **Put otherwise, the issues of petitioner's health and financial problems are immaterial in the absence of a showing of reasonable care in dealing with one's most important business. Therefore petitioner has not shown that the delay was unavoidable.** The showing of record is that the delay in taking action in the above-identified application was the result of petitioner's preoccupation with other matters. Petitioner's preoccupation with other matters which took precedence over the above-identified application does not constitute unavoidable delay. *See* Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

The record shows that Enfish and petitioner had a portfolio of other patents. Patent numbers 5,893,087, 5,850,522, and 5,790,848 had expired to due to non-payment of the maintenance fee and contained petitions to reinstate under 37 CFR 1.378(c). However, patent number 6,182,121 had a maintenance fee payment due around the same time as the other aforementioned expired patents, but was timely paid on July 1, 2004. This fee was timely paid as during the period after petitioner's chemotherapy treatment ending in January 2004, after petitioner acquired Enfish's assets on June 4, 2004, and prior to petitioner's surgery in August 2004. Therefore it is unclear how the reasons given for the unavoidable delay of the maintenance fee payment and expiration of the three aforementioned patents did not also affect the timely payment of the maintenance fee for patent number 6,182,121. If petitioner's health and financial problems affected the timely payment of the maintenance fees of the three aforementioned Enfish patents, what were the circumstances that lead to the timely payment of the maintenance fee for patent number 6,182,121?

Since the petition decision dated September 11, 2006 has been vacated and in view of the present corrected decision, the status of this patent is EXPIRED. If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** Petitioner is reminded that any renewed petition and the required fee(s) should be filed separately for each patent desiring reconsideration.

The combined payment of $1,200 on August 25, 2005 for renewing the petitions in patents 5,893,087, 5,850,522, and 5,790,848 was credited in the instant patent and will be refunded back to petitioner's credit card in view of the vacated decision. An extra payment of $1,150 was found to be charged in the instant patent on August 25, 2005 and will be refunded back to petitioner's credit card. The 7 ½ year maintenance fee paid on October 6, 2006 will be refunded and credited back to the corresponding deposit account because the patent expired for failure to timely pay the 3 ½ year maintenance fee.

Petitioner is reminded that pursuant to 37 CFR 1.2 all business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

By mail: Mail Stop PETITIONS
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401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Amelia Au at (571) 272-7414.

Charles Pearson
Director
Office of Petitions

Cc: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
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OFFICE OF PETITIONS

In re Patent No. 5,893,087	:	
Issue Date: April 6, 1999	:	
Application No. 08/633,842	:	DECISION ON PETITION
Filed: April 10, 1996	:	
Attorney Docket No. 026559-000500US	:	

This is a decision on the request for reconsideration, filed July 30, 2007, of a petition under 37 C.F.R. 1.378(b) to accept an unavoidably delayed payment of a maintenance fee in an expired patent.

The petition is **DENIED**[1].

BACKGROUND

Patent No. 5,893,087 issued April 6, 1999. The first maintenance fee was due April 6, 2003, and could have been paid from April 6, 2002 through October 7, 2002, or with a surcharge during the period from October 8, 2002 through midnight April 6, 2003. Accordingly, the patent expired at midnight April 6, 2003, for failure to timely submit the first maintenance fee.

A first petition to revive under 37 CFR 1.378(b) was filed on August 22, 2005 and was dismissed on November 4, 2005. A renewed petition was filed on December 5, 2005 and was granted on September 11, 2006. Then, in the decision mailed May 29, 2007, this grant was vacated *sua sponte* by the U.S. Patent and Trademark Office (USPTO) and the renewed petition filed December 5, 2005 was dismissed.

The request for reconsideration has been considered and the Petitions of August 22, 2005 and December 5, 2005 have been reconsidered.

STATUTE AND REGULATION

35 U.S.C. § (2)(B)(2) provides, in part, that:

> The Office-- may, establish regulations, not inconsistent with law, which
>
> (A) shall govern for the conduct of proceedings in Office.

35 U.S.C. § 41(c)(1) provides that:

> The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

37 CFR 1.378(b) provides that:

> (b) Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:
>
> (1) The required maintenance fee set forth in §1.20 (e) through (g);
>
> (2) The surcharge set forth in §1.20(i)(1); and
>
> (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

OPINION

Petitioner requests reconsideration of the previous adverse decision on the petition filed under 37 CFR 1.378(b) and submits that due to the efforts of Louise Wannier (Wannier) after becoming aware of the need to pay the maintenance fee, the delay in payment of the maintenance fee was unavoidable.

Petitioner has not met his burden of proving to the satisfaction of the Director that the delay in payment of the maintenance fee was unavoidable within the meaning of 35 USC 41(c)(1) and 37 CFR 1.378(b)(3).

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 USC 133 because 35 USC 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 f. 3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Commissioner that the delay in payment of a maintenance fee is unavoidable. See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied*, 502 U.S. 1075 (1992); Ray v. Lehman, supra.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee,

and the record currently lacks a showing that any steps were put in place by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra.

However, the record fails to show that adequate steps within the meaning of 37 CFR 1.378(b)(3) were taken by or on behalf of a party responsible for payment of the maintenance fee; in fact there were no steps taken by or on behalf of petitioner to pay the fee at least after Morrison and Foerster (Morrison) terminated communications with Enfish, Inc. (Enfish) around mid-2002. Petitioner is reminded that 37 CFR 1.378(b)(3) is a validly promulgated regulation, as is the requirement therein for petitioner's showing of the steps taken to pay the fee. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. In the absence of a showing of the steps taken, 37 CFR 1.378(b)(3) precludes acceptance of the maintenance fee. See also Korsinsky v. Godici, 2005 US Dist. LEXIS 20850 at *13 (S.D. N.Y. 2005), *aff'd sub nom;* Korsinsky v. Dudas, 2007 US Dist. LEXIS 7986 (Fed. Cir. 2007); R.R. Donnelley & Sons v. Dickinson, 123 F.Supp.2d 456, 460, 57 USPQ2d 1244 (N.D. Il. 2000)(failure of patent owner to itself track or obligate another to track the maintenance fee precluded acceptance of the maintenance fee); California, *supra*; MMTC v. Rogan, 369 F.Supp2d 675 (E.D. Va 2004)(passive reliance on USPTO reminder notice resulting in failure to take any steps to ensure payment of the maintenance fee is not unavoidable delay); Femspec v. Dudas, 2007 U.S. Dist. LEXIS 8482 (N.D.Ca 2007)(lack of any steps in place to maintain patent in force by estate executor unfamiliar with patent law is not unavoidable delay); Burandt. v. Dudas, 496 F.Supp.2d 643 at 650 (E.D. Va 2007)(delay not unavoidable where no steps shown to be employed to remind responsible party to timely pay maintenance fees.)

The renewed petition filed on December 5, 2005 indicates that the CFO of Enfish, Mark Bucklin, and the company's patent attorneys, Morrison, were the responsible parties for calendaring and tracking the maintenance fee payments and making the required payment. Around mid-2002, Morrison stopped working for Enfish and terminated all communications due to unpaid bills amounting to approximately $50,000. Enfish became insolvent around August 2002 and completed Chapter 7 bankruptcy around October 2004.

The start of the window for making the first maintenance fee payment was April 6, 2002. However, the record states that Morrison terminated their relationship around mid-2002 which was after the start of the period when the first maintenance fee could have been paid. In other words, before the start of the maintenance fee payment window (April 6, 2002), Morrison and Enfish still had a working relationship and Morrison could have informed Enfish prior to April 6, 2002 when the maintenance fees were due. The record offers no evidence of the maintenance fee payment tracking system used by Morrison and/or the Enfish CFO along with evidence of the steps in place for ensuring that payment of the maintenance fee was timely.

While Enfish's CFO and Morrison were relied on for tracking and making the maintenance fee payment, Wannier of Enfish and LJM Software, Inc. (LJM Software) also clearly stated that she along with Enfish did not have knowledge that maintenance fees were due[2]. Even assuming that Morrison properly calendared the required maintenance fee due dates, there is no evidence on

record that Enfish or Wannier had continued to track or calendar the required maintenance fees payment or had steps in place to ensure the timely payment of the first maintenance fee after Morrison terminated their relationship in mid-2002. Therefore, from mid-2002 and during the period when the maintenance fee could have been paid from April 6, 2002 thru April 7, 2003 (April 6, 2003 being a Sunday), no steps were in place and reasonable care was not taken to ensure that the maintenance fee would be timely paid to prevent expiration of the patent. Since no steps were taken, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee.

While Enfish had financial difficulties during the time the maintenance fee payments could have been paid, Wannier admits to the total lack of knowledge of having to pay the maintenance fee as stated in the record[3] and as evidenced by the fact that the maintenance fee payment was not included as a necessary or priority payment in the company's bankruptcy statements. Wannier did state that she did not review the patent until *after* the completion of the main part of her medical treatments and *after,* the completion of the Enfish bankruptcy because she was unaware that the patent had lapsed[4].

Unfortunately, any delay resulting from the actions or inactions of the patentee is binding upon petitioners as the successors in title. See Winkler v. Ladd, 221 F.Supp. 550, 552, 138 USPQ 666, 667 (D.D.C. 1963). While LJM Software gained ownership of this patent on or about June 4, 2004, such merely gave it standing to file the instant petition on or after that date. The delay resulting from a lack of knowledge of the need to pay maintenance fees does not excuse the delay. See Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *affd,* Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), *affd,* 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied,* 502 U.S. 1075 (1992). Lastly, that one may have subsequently exercised diligence after their assumption of title and belated awareness of the need to pay the fee does not convert the preceding delay into unavoidable delay. See Kim v. Quigg, 718 F.Supp. 1280, 12 USPQ2d 1604 (E.D. Va 1989).

In addition, the petition for reconsideration, filed July 30, 2007, asserts that three windows existed for payment of the maintenance fee, with the alleged third window permitting payment of the fee provided that the delay was unintentional for 24 months and unavoidable thereafter. However, only two periods actually exist prior to the expiration of the patent. The first period is the time during which the fee may be properly paid. The second period is a six-month grace period in which the fee may be paid with a surcharge. After the first two periods, the patent expires. Although a patent can be reinstated after it expires due to failure to pay the maintenance fee, additional standards such as the delay being unintentional or unavoidable must be satisfied. Accordingly, the statutory mechanism to reinstate a patent is not recognized as merely a third period in which a maintenance fee can be paid. Also, 35 USC 41(c)(1) establishes the unintentional and unavoidable delay standards as alternatives and, as such, they cannot be combined to explain different times during the delay as attempted in the petition for reconsideration. Since the petition to accept the delayed payment of the maintenance fee in the present application was filed more than twenty four months after the six-month grace period expired, the entire delay must have been unavoidable. Whether or not the delay was unintentional at any time during the period of delay is not relevant here. Rather, petitioner must

show that the entire delay in paying the maintenance fee was unavoidable, including the period before Wannier became aware of the need to pay the maintenance fee.

Moreover, although Wannier became responsible for payment of the maintenance fees after the rights to the patent were assigned to LJM Software on or about June 4, 2004, no action was taken with regard to the maintenance fee or the lapsed patent until March 15, 2005 when she met with Mr. Kevin Spivak of Morrison about reinstating the expired patents. She submitted a document (attachment F) provided by Morrison to her which indicated an "abandonment" date of May 7, 2003 which she relied upon as the date from which the patent may be reinstated. A review of document F indicated no inaccuracies with regard to the data. While May 7, 2003 is listed as the "abandonment" date for the application, there is no correlation between the "abandonment" date and the date from which to reinstate the patent.

Wannier credits the delay (from mid-2004 until August 22, 2005) in filing the petition promptly after being aware or notified of the expiration of the patent to her medical surgeries and her recuperation. While she underwent numerous medical treatments, they did not appear to interfere with her other business dealings. During the periods between the surgeries and/or treatments, Wannier was able to complete her other business affairs including having LJM Software legally acquire the assets of Enfish in June 4, 2004 and the work leading to the completion of the Enfish bankruptcy from August 2002 thru October 20, 2004. Therefore, she was able to handle other business affairs during the periods between her stated surgeries, which coincide with the time period when the delayed maintenance fee payment could have been made. These were not the actions of a reasonably prudent person with respect to her most important business and, as such, precludes a reasonable and rational finding that the delay in payment of the maintenance fee was unavoidable.

Also, Enfish and Wannier had a portfolio of other patents. Patent numbers 5,893,087, 5,850,522, and 5,790,848 had expired to due to non-payment of the maintenance fee and contained petitions to reinstate under 37 CFR 1.378(c). However, patent number 6,182,121 had a maintenance fee payment due around the same time as the other aforementioned expired patents, but was timely paid on July 1, 2004. This fee was timely paid as during the period after Wannier's chemotherapy treatment ending in January 2004, after she acquired Enfish's assets on June 4, 2004, and prior to her surgery in August 2004. Therefore, maintenance fee payments were made on patents in the portfolio of Enfish and Wannier despite her health concerns.

Furthermore, Wannier admits that while she was concerned with recovering her health during the period when the patent expired, she was also unaware that the patent payments had not been made and the patent expired because she received no communications regarding the maintenance fee from the USPTO or from Morrison. In order words, she had no steps in place for paying the maintenance fees from mid-2002 until the date of the first petition on August 22, 2005. Put otherwise, the issues of Wannier's health and financial problems are immaterial in the absence of a showing of reasonable care in dealing with one's most important business. Therefore, the delay was not unavoidable. The delay in taking action in the above-identified application was the result of Wannier's preoccupation with other matters. Her preoccupation with other matters, which took precedence over the above-identified application, does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533,538; 213 USPQ 977, 982 (D.C. Cir. 1982).

DECISION

Petitioner has failed to meet the burden of proving to the satisfaction of the Director that the entire delay in submission of the maintenance fee herein was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b). Accordingly, the maintenance fee will not be accepted, this patent will not be reinstated, and this patent remains expired. The petition is **denied.**

The USPTO will not further consider or reconsider this matter.

Any inquiries concerning this communication may be directed to Christopher Bottorff at (571) 272-6692.

Charles Pearson
Director, Office of Petitions
cb/db

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[1] This decision may be considered a final agency action within the meaning of 5 U.S.C. § 704 for purposes of obtaining judicial review. See MPEP 1002.02.

[2] "If the company had known that maintenance payments were due subsequent to this time [mid-2002], the company would have included these payments in the priority amounts that is made during the workout and transition to bankruptcy." From first paragraph on page 4 of the renewed petition dated December 5, 2005.

[3] "If I, as incorporator and responsible party for LJM Software had known of the unintentional reinstatement period and the nonpayment of the maintenance fees, they would have been paid." From second paragraph on page 4 of the renewed petition.dated December 5, 2005.

[4] "During this time [treatment for cancer May 2003], I was completely unaware that the patent payments had lapsed because I received no mailing from the patent offices, the Enfish attorneys ceased correspondence due to their being owed money by the company and it was not until subsequent to the completion of the main part of the treatments and the completion of the Enfish bankruptcy that I reviewed the patents and discovered that they were in arrears." From second paragraph on page 6 of the renewed petition dated December 5, 2005.

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Director's Office
Group 2700

Paper No. ~~38~~ 37

Seong-Kun Oh
Limbach & Limbach L.L.P.
2001 Ferry Bldg.
San Francisco, CA 94111

In re Application of Motoki Kato Application Serial No. 08/634,122 Filed: April 19, 1996 For: APPARATUS FOR ENCODING AND DECODING HEADER DATA IN PICTURE SIGNAL TRANSMISSION	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 C.F.R. 1.181(a)

This is a decision on the petition filed December 14, 1999, requesting that the holding of abandonment of the above-identified application be withdrawn.

On November 6, 1998, a Notice of Abandonment was mailed due to applicant's failure to respond to the Office Action mailed March 30, 1998. Thereafter, on November 12, 1998, applicant forwarded by facsimile a petition to withdraw the holding of abandonment, and therewith provided sufficient evidence indicating the timely filing of a Three-Month Extension of Time and a Notice of Appeal on September 29, 1998. Shortly thereafter, on December 7, 1998, applicant filed an Appeal Brief appealing the decision made by the examiner in the Advisory Action mailed July 7, 1998. A period of almost one year elapsed from the filing of the Brief, during which time all of the above-noted communications were of record, but during which time the status of the application was 'abandoned'.

The petitioner indicates that the application was held to be abandoned in a Status Letter Reply which was forwarded by the Office just prior to November 22, 1999. Subsequent thereto, however, the neglected communications by applicant were recognized, a Notice of Rescinded Abandonment was mailed on November 29, 1999, and the case was taken up for action, with the mailing of an Examiner's Answer on February 4, 2000. Applicant has since filed a Reply Brief on April 10, 2000, to which the examiner responded in a communication mailed April 19, 2000.

In view of the above, it is apparent that both parties recognize that the application is no longer held to be abandoned.

The petition is moot.

The application has been forwarded to the Board of Patent Appeals and Interferences for a decision on the appeal.

James Dwyer, Director (Acting)
Technology Center 2700
Communications and Information Processing

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Paper No. 19

PAUL DAVIS
WILSON SONSINI GOODRICH & ROSATI
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PALO ALTO, CA 94304

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DEC 1 9 2001

OFFICE OF PETITIONS

In re Application of	:	
Edward W. Knowlton	:	
Application No. 08/635,202	:	ON PETITION
Filed: April 17, 1996	:	
Attorney Docket No. 16904-705	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2001, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure submit the issue fee and formal drawings in a timely manner in reply to the Notice of Allowance mailed September 29, 1997, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 30, 1997.

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

The $620 small entity issue fee has not been received. There is no indication that corrected formal drawings as required by the Notice of Allowability of September 29, 1997 have been submitted. The $620 petition to revive under the unintentional standard of 37 CFR 1.137(b) fee has not been received. Accordingly, a consideration on the merits of the present petition cannot be made until the total amount of $1240 ($620 petition fee and $620 Issue Fee) deficiencies are submitted to the Office with the corrected formal drawings.

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

By mail: U.S. Patent and Trademark Office
Box DAC
P.O. Box 2327
Arlington, VA 22202

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

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

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 23

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1505

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JAN 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Edward W. Knowlton :
Application No. 08/635,202 :
Filed: April 17, 1996 :
Attorney Docket No. 16904-705

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 27, 2001, to revive the above-identified application.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Publishing Division to be processed into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 40

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, N.W.
Washington, D.C. 20005

MAIL

APR - 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Ann M. Wollrath et al.)
Application No.: 08/636,706)
Filed: February 10, 2003)
For: SYSTEM AND METHOD FOR FACILITATING DYNAMIC LOADING OF "STUB" INFORMATION TO ENABLE A PROGRAM OPERATING IN ONE ADDRESS SPACE TO INVOKE PROCESSING OF A REMOTE METHOD OR PROCEDURE IN ANOTHER ADDRESS SPACE)

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed February 4, 2004 under 37 CFR § 1.181 to a withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to file a timely response to the Office action of mail date November 7, 2002. A Notice of Abandonment was mailed on January 15, 2004.

A review of the file record indicates that a response was filed on February 7, 2003, within the 3 month shortened statutory period. Therefore, the record is clear that the application was ***not abandoned in fact*** and a Notice of Abandonment should not have been issued.

The office regrets any inconvenience caused by the precipitate mailing of the Notice of Abandonment.

The petition is **GRANTED**. The Notice of Abandonment is withdrawn.

The application file is being forwarded to the Technology Center support staff for processing of the amendment and will then be forwarded to the Examiner for appropriate action.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

15 FEB 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Laura A. Coruzzi
PENNIE & EDMONDS
1155 Avenue of the Americas
New York, N.Y. 10036-2711

In re Application of
KERN, Andrea et al
U.S. Application No.: 08/637,752
PCT No.: PCT/EP94/03564
Int. Filing Date: 28 October 1994
Priority Date: 28 October 1993
Attorney Docket No.: 8484-013-999
For: ADENO-ASSOCIATED VIRUS - ITS DIAGNOSTIC USE WITH EARLY ABORTION

DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Renewed Petition Under 37 CFR § 1.137(b)," filed via facsimile on 08 December 1999.

BACKGROUND

On 18 October 1999, a decision dismissing applicants' petition under 37 CFR 1.137(b) was mailed because of a failure to provide the requisite statement, or furnish the proper terminal disclaimer and fee as required.

On 08 December 1999, applicants filed via facsimile the instant petition and a terminal disclaimer.

DISCUSSION

As previously stated, a petition under 37 CFR 1.137(b) requesting to revive an application on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). Items (1) and (2) have been satisfied.

Concerning item (3), applicants' attorney states that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" as required.

With regards to item (4), 37 CFR 1.137(c) states, in part:

> Any terminal disclaimer pursuant to this paragraph must also apply to **any** patent granted on **any** continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.

The terminal disclaimer submitted limits its application to 35 U.S.C. 120 benefits, and is therefore unacceptable. Thus, item (4) is not satisfied.

Accordingly, all the requirements of 37 CFR 1.137(b) have not yet been satisfied.

The Statutory Disclaimer fee of $110.00 has been charged to Counsel's Deposit Account No. 16-1150 as authorized.

CONCLUSION

The renewed petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

Since a grantable petition to revive has not been filed, the international application remains **ABANDONED** as to the United States.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." A proper response must include a new terminal disclaimer. Applicants are advised that extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Boris Milef
PCT Legal Examiner
PCT Legal Office

James Thomson
PCT Legal Attorney
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Application of
KERN, Andrea *et al*
U.S. Application No.: 08/637,752
PCT No.: PCT/EP94/03564
Int. Filing Date: 28 October 1994
Priority Date: 28 October 1993
Attorney Docket No.: 8484-013-999
For: ADENO-ASSOCIATED VIRUS - ITS DIAGNOSTIC USE WITH EARLY ABORTION

DECISION

This decision is in response to applicants' "Renewed Petition Under 37 CFR 1.137(b)" ("Ren.Pet.") purportedly originally filed 18 September 2000 and again via facsimile on 15 November 2000 and by messenger on 16 November 2000.

BACKGROUND

On 15 February 2000, a decision dismissing applicants' renewed petition under 37 CFR 1.137(b) was mailed because of a failure to provide a proper terminal disclaimer. Applicants were given two months to respond.

On or about 20 August 2000, counsel, Birgit Millauer, contacted James Thomson, PCT Legal asking about the decision to the renewed petition to revive filed 08 December 1999 on the above-captioned application. Mr. Thomson responded that the decision was mailed 15 February 2000. Counsel requested a facsimile copy of the decision which was sent 07 September 2000.

On 18 September 2000, applicant purportedly filed a "Renewed Petition Under 37 CFR 1.137(b)" which was accompanied by, *inter alia*, a corrected terminal disclaimer and fee, a "Declaration of Carolyn Garcia" ("Garcia Decl."), and copies of the law firm's mail log from 15 February 2000 through 31 May 2000. These papers are currently not located in the above-identified file.

On 15 November 2000, applicants filed via facsimile copies of the documents purportedly filed 18 September 2000 excluding the mail logs.

On 16 November 2000, applicants submitted copies of the documents purportedly filed 18 September 2000 including all of the mail logs via a messenger.

DISCUSSION

Present Petition Mailed 18 September 2000

Applicant claims that the instant response was originally submitted 18 September 2000. Section 503 of the Manual of Patent Examining Procedure ("MPEP") lists procedures for applicants to ensure receipt of any paper filed in the PTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

In this case, applicants have provided a copy of their date-stamped filing receipt. The receipt clearly identifies the application and all papers submitted with the U.S. application number, attorney docket number and title. The postcard filing receipt acknowledges that an assignment, petition under 37 CFR 1.137(b), terminal disclaimer and copies of mail logs from 15 February 2000 to 31 May 2000 were received in the PTO on 18 September 2000. The receipt is stamped "OIPE SEP 18 2000" across its face. Accordingly, applicant has provided *prima facie* evidence that the instant papers submitted via a messenger on 16 November 2000 were originally filed on18 September 2000.

Nonreceipt of Decision

The decision dated 15 February 2000 gave applicant two months to provide a proper response. Applicant could request an extension of time pursuant to 37 CFR 1.136. However, applicant did not respond until 18 September 2000.

Applicant claims that the decision was never received via first class mail and that they did not learn of the decision until Birgit Millauer telephoned James Thomson of the PCT Legal Office on or about 20 August 2000.

The showing required to establish the failure to receive an Office communication (set forth in section 711.03(c) of the MPEP, page 700-87 (Rev. 1 Feb. 2000) must consist of: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioners' statement.

In the instant response, counsel states that "[a]pplicants did not receive the decision via first class mail." Ren.Pet. ¶ 3. This statement satisfies item (1).

With regards to item (2), applicant submitted a "Declaration of Carolyn Garcia" the Docket Supervisor in the Records and Docketing department of the New York office of Pennie & Edmonds LLP where the 15 February 2000 decision was mailed. Ms. Garcia explained the firm's docketing procedure and that the firm uses a computerized daily tickler record. Ms. Garcia states that the New York office enters PTO correspondence in a mail log on the date in which it is received, a copy is made of each piece of correspondence and kept in the Docketing Department, and that all PTO correspondence is docketed in the computerized docketing system, on the file itself, and on the correspondence itself. Moreover, Ms. Garcia says that a "review of the files (Pennie & Edmonds LLP docket no. 8484-13) did not reveal the Decision dated February 15, 2000." Garcia Decl. ¶ 5. Also, Ms. Garcia claims that "I checked the mail log" and that the "search did not identify a copy of the Decision, dated February 15, 2000." Id. at ¶ 6. Furthermore, she "checked the computer docketing system and no indication of the Decision being received is there." Id. at ¶ 7. Finally, Ms. Garcia concludes that there "is no indication in any of our records . . . that the Decision was ever received." Id. at ¶ 8. These statements satisfy item (2).

Concerning item (3), applicants submitted copies of the law firm's mail logs from 15 February 2000 through 31 May 2000 where official PTO correspondence is entered on the date in which it was received. A review of these logs do not show that the aforementioned decision was received. Nevertheless, applicants must also provide a copy of the computer docket record for the above-captioned file so the Office can verify that the decision was never received. Until receipt of these records, applicants have not sufficiently established nonreceipt of the 15 February 2000 decision.

Petition to Revive

A petition under 37 CFR 1.137(b) requesting to revive an application on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). Items (1), (2) and (3) have previously been satisfied.

With regards to item (4), 37 CFR 1.137(c) states, in part:

> Any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought.

This time the terminal disclaimer submitted does not limit its application to 35 U.S.C. 120 benefits, but also to 35 U.S.C. 121 and 365(c) benefits. The statutory disclaimer fee was previously submitted. Thus, item (4) is satisfied. Accordingly, all the requirements of 37 CFR 1.137(b) are completed. However, applicants failed to meet the requirements of 37 CFR 1.137(d). Section 711.03(d)(III)(H) states in part:

> 37 CFR 1.137(d) specifies a time period within which a renewed petition pursuant to 37 CFR 1.137 must be filed to be considered timely. Where an applicant files a renewed petition, request for reconsideration, or other petition seeking review of a prior decision on a petition pursuant to 37 CFR 1.137 outside the time period specified in 37 CFR 1.137(d), the Office may require, inter alia, a specific showing as to how the entire delay was "unavoidable" (37 CFR 1.137(a)) or "unintentional" (37 CFR 1.137(b)).

Here, satisfying the requirements outlined above regarding nonreceipt of an office action would be an acceptable response.

CONCLUSION

The renewed petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

Since a grantable petition to revive has not been filed, the international application remains **ABANDONED** as to the United States.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Applicants are advised that extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

James Thomson
PCT Legal Attorney
PCT Legal Office

Tel.: (703) 308-6457

Express Mail No. EL 451 595 035 US
Date Mailed 18 September 2000 First Class Mail ( )
Ser. No. 08/637,752
Inventor Kern et al. Filed 29 April 1996
For ADENO-ASSOCIATED VIRUS-ITS DIAGNOSTIC USE WITH EARLY ABORTION

(X) ~~Affidavit~~/Declaration of Carolyn Garcia
( ) Amendment
( ) Application____Pages
( ) ____ Claims ____ Drawings
( ) Appeal, Notice of
(XX) Assignment (copy)
( ) Brief (in triplicate)
( ) Declaration & Power of Attorney
( ) Design Application
( ) Disclaimer
( ) Disclosure Statement
( ) w/refs. ( ) w/o refs.
( ) Drawings Formal
____Sheets ____Figures

( ) Fee Address Indication Form
( ) Fee Calculation
( ) Issue Fee Transmittal
( ) Letter
( ) Oral Hearing Req./Confirm.
( ) Petition to Extend Time
(XX) Pet. under 37 C.F.R. 1.137(b) RENEWED (dupl)
( ) Power of Attorney
____Associate____w/Revocation
( ) Sequence Listing w/Computer Readable and Paper Copies
( ) Small Entity Statement
( ) Status Letter
( ) Transmittal Letter

OIPE JC117
SEP 1 8 2000
PATENT & TRADEMARK OFFICE

Other: Terminal Disclaimer (dupl); Exhibit 1 copies of mail logs from 2/15/00-5/31/00; Return Post Card
File No. 8484-013-999 Sender: LAC/BBM/jwc

FEB 0 7 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

FEB 0 9 2001

Laura A. Coruzzi
PENNIE & EDMONDS
1155 Avenue of the Americas
New York, N.Y. 10036-2711

In re Application of
KERN, Andrea *et al*
U.S. Application No.: 08/637,752
PCT No.: PCT/EP94/03564
Int. Filing Date: 28 October 1994
Priority Date: 28 October 1993
Attorney Docket No.: 8484-013-999
For: ADENO-ASSOCIATED VIRUS - ITS DIAGNOSTIC USE WITH EARLY ABORTION

DECISION

This decision is in response to applicants' "Renewed Petition Under 37 CFR 1.137(b)" filed 13 December 2000. The petition fee has been paid.

BACKGROUND

On 28 November 2000, a decision dismissing applicants' renewed petition under 37 CFR 1.137(b) was mailed because applicants failed to meet the requirement of 37 CFR 1.137(d). Specifically, applicants did not provide a copy of the computer docket record for the above-captioned file needed to prove nonreceipt of the 15 February 2000 decision causing the delay to respond.

On 13 December 2000, applicants submitted the instant petition along with a copy of the computer docket record for the above-captioned file.

DISCUSSION

As previously stated, the 15 February 2000 decision gave applicants two months to provide a proper response, however, applicants did not respond until 18 September 2000. Applicants claim that the decision was never received via first class mail and that they did not learn of the decision until on or about 20 August 2000.

To prove nonreceipt of an Office communication, applicants must provide: (1) a statement from the practitioner declaring that the Office communication was not received by the practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and, (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and

referenced in practitioners' statement. Applicants previously satisfied items (1) and (2).

With regards to item (3), in the prior petition applicants submitted copies of the law firm's mail logs from 15 February 2000 through 31 May 2000. In the instant renewed petition, applicants have provided a copy of the computer docket record for the above-captioned file. A review of the record titled "Prosecution and Maintenance Docket" verifies that there is no indication of receipt of the 15 February 2000 decision. The record is dated 12 December 2000 and contains the correct attorney, attorney docket number and title. This satisfies the requirements of item (3).

Accordingly, applicants have successfully demonstrated that the 15 February 2000 for the above-captioned application was not received.

Petition to Revive

In the prior petition, applicants satisfied all the requirements of 37 CFR 1.137(b). However, applicants failed to meet the requirements of 37 CFR 1.137(d) because the renewed petition was not considered timely.

Nevertheless, since applicants have successfully proven nonreceipt of the 15 February 2000 decision, the requirements of 37 CFR 1.137(d) have also been successfully met.

CONCLUSION

For the reasons discussed above, applicants' renewed petition to revive the above-captioned application under 37 CFR 1.137(b) is **GRANTED**.

The declaration submitted 02 May 1996 was not executed.

Accordingly, the application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements (Form PCT/DO/EO/905) for failing to provide a declaration in compliance with 37 CFR 1.497 (a) and (b).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

James Thomson
PCT Legal Attorney
PCT Legal Office

Tel.: (703) 308-6457

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY LLP
FOUR EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111

COPY MAILED
DEC 15 2004
OFFICE OF PETITIONS

In re Application of	:	
Andrea Kern et al	:	
Application No. 08/637,752	:	ON PETITION
Filed: July 20, 2001	:	
Attorney Docket No. 8484-013-999	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed November 28, 2003, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provision of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 29, 2004.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on October 28, 2004.

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

This matter is being forwarded to Technology Center AU 1648 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
Washington, D.C. 20231

MAILED

Paper No.: 14

AUG 27 2001

Director's Office
Group 3700

Richard T. Lyon
LYON, HARR & DEFRANK, LLP
300 Esplanade Drive, Suite 800
Oxnard, CA 93030

In re application of
George Tash

Serial Number: 08/637,894
Filed: April 25, 1996
For: **IMPROVED TOILET AND SINK DRAIN PLUNGER**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR. 1.137

This application is before the Director of Groups 3740 & 3750 for reconsideration of the Notice of Abandonment mailed April 27, 1998 for failure to respond to the Office Action mailed August 20, 1997

A review of the file indicates that a request for a CPA was timely filed on May 3, 1999 and again August 13, 2001.

In view of the above, the Notice of Abandonment mailed April 27, 1998 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment **WITHDRAWN**.

Richard A. Bertsch, Director
Technology Center 3700
(703) 308-0975

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6006195	1999-12-21	08638106	1996-04-26	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/s/Mark S. Leonardo/	Date (YYYY-MM-DD)	2008-03-27
Name	Mark S. Leonardo	Registration Number	41433

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6006195
Issue Date: December 21,1999
Application No. 08638106
Filed: April 26,1996
Attorney Docket No. WGT-001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 27,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 27,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5720844	1998-02-24	08/638,848	1996-04-29	7037-1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	◉	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brent P. Johnson/	Date (YYYY-MM-DD)	2010-06-22
Name	Brent P. Johnson	Registration Number	38031

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5720844
Issue Date: February 24,1998
Application No. 08638848
Filed: April 29,1996
Attorney Docket No. F96.4

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 22,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,846,975	1998-12-08	08/640,781	1996-05-21	3519-0117P

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

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

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/mark j. nuell/	Date (YYYY-MM-DD)	2007-04-26
Name	Mark J. Nuell	Registration Number	36623

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 5846975
Issue Date: December 8,1998
Application No. 08640781
Filed: May 21,1996
Attorney Docket No. TPP30047

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 26,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 26,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 39

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OFFICE OF PETITIONS
A/C PATENTS

WESTERLUND POWELL, PC
122 N. ALFRED STREET
ALEXANDRIA , VA 22314-3011

In re Application of
REISMAN, RICHARD R.
Application No. 08/641,010
Filed: 04/29/1996
Attorney Docket No. REISMANCIP72

ON PETITION

This is a decision on the petition filed on May 14, 2001, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed on April 5, 1999, is no longer necessary due to prosecution actions taken subsequent to the filing of the disclaimer. The examiner has agreed.

This application will be forwarded to Technology Center 2100 for correction of PALM and file jacket records consistent with this decision.

Telephone inquiries relative to this decision should be directed to Petitions Attorney Scott M. Ledford at (703) 306-5593.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy