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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/642,712	05/03/1996	KENNETH TUCKER	069748-0100	2162

22428 7590 01/02/2008

FOLEY AND LARDNER LLP
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EXAMINER	
DUFFY, PATRICIA ANN	

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1645	

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

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

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

In re Application of :
Kenneth Tucker et al :
Serial No.: 08/642,712 : PETITION DECISION
Filed: May 3, 1996 :
Attorney Docket No.: 069748-0100 :

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed September 24, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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)
5996237	1999-12-07	08/643,791	1996-05-06	4067-100

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	/steven j. hultquist/	Date (YYYY-MM-DD)	2007-12-09
Name	Steven J. Hultquist	Registration Number	28021

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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In re Patent No. 5996237
Issue Date: December 7,1999
Application No. 08643791
Filed: May 6,1996
Attorney Docket No. 4067-101

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

This is a decision on the electronic petition, filed December 9,2007 ,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 9,2007 . 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.

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)
5800941	1998-09-01	08643920	1996-05-07	

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

	Fee	Code
◯	3 ½ year	(1551)
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◯	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

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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	/Benoît CASTEL/	Date (YYYY-MM-DD)	2007-11-28
Name	Benoît 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.**

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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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In re Patent No. 5800941
Issue Date: September 1,1998
Application No. 08643920
Filed: May 7,1996
Attorney Docket No. 2747-006

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

This is a decision on the electronic petition, filed November 28,2007 ,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 28,2007. 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.

The opinion in support of the decision being entered today: (1) was not written for publication in a law journal; and (2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

MAILED

JUN 14 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENNETH J. KIRSTEN

Appeal 1999-1807
Application 08/644,912[1]

ON BRIEF

Before: OWENS, LIEBERMAN, and NAGUMO, Administrative Patent Judges.

NAGUMO, Administrative Patent Judge.

Decision on appeal under 35 U.S.C. § 134

The appeal is from a decision of a primary examiner rejecting claims 9, 10, 13, 14, 26, 28, and 29. Claim 27 has been withdrawn from consideration.[2] We reverse and enter a new ground of rejection pursuant to our authority under 37 C.F.R. § 1.196(b).

---

[1] Application for patent filed August 8, 1996. This application is represented as a continuation-in-part of application serial no. 08/514,049, filed August 11, 1995, now abandoned. According to Appellant, the real party in interest is Litton Industries, Inc., of Des Plaines, IL. (Brief at 1.)

[2] Appellant states further that claim 27 was inadvertently not canceled. (Brief at 2.)

A. Findings of fact

The record supports the following findings by at least a preponderance of the evidence.[1]

The invention

The invention relates to a thermosetting resin encapsulating formulation in which the cross-linking agent functions as a flux, removing oxides from metal surfaces at temperatures below the solder melt temperature, and, at temperatures above the solder melt temperature, as a cross-linking agent, aided by a catalyst. (Specification at 9.) The preferred thermosetting resins are epoxies, the preferred fluxing cross-linking agents are certain organic carboxylic acid anhydrides, and the catalyst is tin octoate. (*Id.* at 11.)

Appellant describes a typical use of the claimed composition by reference to Figure 1. (Specification at pages 26–27.) A substrate **100** with a metallization pattern **110** is coated with the encapsulating formulation **120**. A device **130** having solder bumps **140** is positioned so the solder bumps **140** are aligned with the metallization pattern **110**. (*Id.* at 26.) The device and the substrate are brought into intimate contact and heated. Referring to Figure 2, the cross-linking agent is activated by the heat and acts as a flux, removing metal oxides from the metalization pattern **210** and from the

[1] To the extent these findings of fact discuss legal issues, they may be treated as conclusions of law.

solder **220**. (*Id.* at 27.) Referring to Figure 3, as the temperature is increased into zone 3, the solder melts at temperatures above the dashed line, wetting the device contact and the metallization pattern **110** to form an electrical connection. At the peak temperatures, above the solder melting point, the formulation cross-links, thereby encapsulating and mechanically protecting the device. (*Id.* at 28.) Appellant states that gel formation (i.e., cross-linking of the formulation) prior to solder reflow in zone 3 would impede soldering because a physical barrier would be created preventing the solder from wetting the target metal surface. (*Id.*)

In summary, Appellant's claimed composition comprises a thermosetting resin, a cross-linking agent that also acts as a flux, and a catalyst that catalyzes cross-linking of the resin only at temperatures above the melting point of the solder.

The claims

Claim 9 is representative and reads as follows:

> An encapsulant for electrically connecting a metal bond site of a first electrical component to a metal bond site of a second electrical component with solder and for forming an encapsulant encased electrical solder connection between said first and second components at solder reflow conditions, comprising:
> a) a thermosetting resin;
> b) a cross-linking agent for said resin that also acts as a fluxing agent that removes oxide coatings from the surface of said first and second electrical components below the solder melt temperature of said solder; and
> c) a tin octoate catalyst for catalyzing cross-linking of said thermosetting resin with said cross-linking agent, the peak exotherm of

said mixture of catalyst, thermosetting resin, and cross-linking agent as measured using DSC at a ramp rate of 10° per minute being at or above the solder melting point whereby the gel point of said cross-linked thermosetting resin is reached after solder melt.

Claim 10 depends from claim 9 and specifies that the thermosetting resin is an epoxy resin.

Claim 26 depends from claim 9 and specifies that the thermosetting resin is a bisphenol A epoxy resin.

Claims 13 and 14 depend from claims 9 and 10, respectively, and specify that the cross-lining agent is a polyanhydride.

Claims 28 and 29 depend from claims 9 and 10, respectively, and specify that the cross-linking agent is methyltetrahydrophthalic anhydride (MTHPA).

The prior art

The examiner has relied on the following prior art as evidence of unpatentability:

Hunt et al. (Hunt)	U.S. Patent No. 4,282,136	August 4, 1981
Pennisi et al. (Pennisi)	U.S. Patent No. 5,136,365	August 4, 1992
Christie et al. (Christie)	U.S. Patent No. 5,250,848	October 3, 1993

Additional prior art

The following art is cited in the new ground of rejection, *post*, and listed on PTO form 892, attached to this decision. A copy of the reference is also attached to this decision:

Melton et al. (Melton) U.S. Patent No. 5,269,453 December 14, 1993

The examiner's rejections

The examiner has rejected claims 9, 10, 13, 14, 26, 28, and 29 as unpatentable under 35 U.S.C. § 103(a) over the combined teachings of Christie and either Hunt or Pennisi.

Christie

Christie relates to curable formulations especially suited for covering controlled collapse chip connections. (Christie at col. 2, ll.52–66.) Christie teaches that the formulations comprise a cycloaliphatic polyepoxide or cyanate ester as the binder resin. (*Id.* at col. 3, ll.60–63.) Christie requires that the cycloaliphatic epoxides have a specified viscosity. (*Id.* at col. 4, ll.18–22.) According to Christie, the epoxide formulations may contain a hardener such as MTHPA or other anhydrides of organic carboxylic acids. (*Id.* at col. 5, ll.35–39.) Christie discloses that suitable catalysts for epoxies include amines and acidic catalysts such as stannous octoate. (*Id.* at ll.64–68.) Such compositions are said to cure at temperatures less than 150° C, preferably about

130° to 140° C. (*Id.* at col. 6, ll.47–50.) (The cyanate ester compositions cross-link by cyclotrimerization (*id.* at col. 4, ll.23–25), and do not require a cross-linking agent.)

Pennisi

Pennisi relates to an adhesive formulation that contains a curable adhesive material, flux, and solder particles. (Pennisi at col. 2, ll.59–60.) Bisphenol A epoxides are disclosed as curable adhesives. (*Id.* at col. 3, ll.20–22.) Anhydrides are disclosed as curing agents. (*Id.* at col. 4, ll.36–37.) Various organic carboxylic acids are disclosed to be useful as fluxing agents. (*Id.* at col. 3, ll.28–43.) Pennisi does not disclose MTHPA as a curing agent, nor does Pennisi disclose tin octoate or other catalysts.

Hunt

Hunt relates to encapsulation formulations for semiconductor devices. (Hunt at col. 1, ll.9–13.) According to Hunt, the inventive formulations comprise an epoxy molding compound or an epoxy novolac (*id.* at col. 2, ll.25–46), including bisphenol-A epoxy resins (*id.* at ll.30), various anhydride hardeners (*id.* at ll.47–61), and various curing catalysts, including metal carboxylate salts such as stannous octoate (*id.* at ll.67–68). Hunt teaches that the compositions may be molded by application of temperatures ranging from about 149° to 204° C, preferably about 177° to 191° C. (*Id.*

at col. 4, ll.44–48.) The amount of catalyst is adjusted to harden the compound under the molding conditions. (*Id.* at ll.62–64.) Hunt does not name MTHPA as a hardener.

Melton

Melton discloses solders useful for attaching integrated circuit components to circuit boards via solder-bump interconnections without melting the metal bump. (Melton at col. 1, ll.10–18.) In particular, Melton teaches alloys of about 49% tin and 51% indium that form a eutectic composition melting at about 121° C. (*Id.* at col. 5, ll.50–52.) Melton also teaches bismuth-indium eutectic compositions (about 50:50) that melt at about 85° C. (*Id.* at col. 6, ll.40–43.)

We refer the reader to the examiner's Answer and to Appellant's brief for the full expositions of their respective points of view.

B. Discussion

In a rejection for obviousness, every limitation must be shown to be present, expressly or inherently, in the applied prior art, or to have been obvious in view of that art to one of ordinary skill in the art. *In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697-98 (Fed. Cir. 2001). When a composition of matter is claimed, functional limitations are given weight according to the extent to which they constrain the make-up of the composition. *See, e.g., In re Swinehart*, 439 F.2d 210, 212, 169 USPQ 226, 228 (CCPA 1971) (approving 'functional' characterization of a composition).

In the present appeal, the examiner has erred by failing to come forward with evidence demonstrating that the compositions taught by Christie meet the functional limitations of claim 9. Claim 9 requires that "the peak exotherm of said mixture of catalyst, thermosetting resin, and cross-linking agent as measured using DSC at a ramp rate of 10° per minute be[ing] at or above the solder melting point whereby the gel point of said cross-linked thermosetting resin is reached after solder melt." This limitation constrains the thermosetting resin and cross-linking agent to be selected from among those that will not cross-link until a temperature above the melting temperature of the solder. If the thermosetting resin sets below the melting temperature of the solder, the composition will not be fit for its intended purpose because it will harden before the two parts of the circuit have been soldered together. Hence, this limitation is not a "mere expression of intended use" — rather, it is a material limitation that excludes many possible thermosetting resins.

Regarding claim 26, the examiner maintains that it would have been obvious to make a substitution that Christie expressly excludes. Christie also expressly limits its disclosed and claimed compositions to "cycloaliphatic polyepoxide, cyanate ester, or prepolymers thereof." (Christie at col. 3, ll.60–63; emphasis added.) In the face of this explicit exclusion of aromatic polyepoxides, particularly when the cyanate esters can include derivatives of bisphenol-A (*id.* at col. 4, ll.26–47), the examiner must come

forward with specific teachings in the prior art that show that one of ordinary skill in the art would have known to expand the teachings of Christie to include aromatic polyepoxides without "destroying" the objectives sought by Christie. The examiner's statement that "bisphenol-A epoxides are known at most all viscosity profiles, ranging from the difunctional compounds through the millions in molecular weight" is not evidence. *In re Zurko*, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697–98 (Fed. Cir. 2001) ("With respect to core factual findings in a determination of patentability, however, the Board cannot simply reach conclusions based on its own understanding or experience—or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.") Having failed to come forward with such evidence, the examiner's rejection of claim 26 must fall.

New grounds of rejection

1. Claims 9, 10, 13, 14, 28, and 29 are rejected as unpatentable under 35 U.S.C. § 103(a) over the combined teachings of Christie and Melton.

Christie, as described in detail *supra*, teaches themosetting epoxy resins in combination with polyanhydride cross-linking agents, including MTHPA, and catalysts, including tin octoate. The anhydride cross-linking agents, including MTHPA, will also function as fluxing agents, removing oxides from the surfaces of metals. *In re Papesch*,

315 F.2d 381, 391, 137 USPQ 43, 51 (CCPA 1963) ("From the standpoint of patent law, a compound and all of its properties are inseparable; they are one and the same thing.") According to Christie, the thermosetting compositions set at temperatures less than 150° C, preferably between 130°–140° C; the acceptable and the preferred thermosetting temperature ranges include temperatures higher than the 85° C and the 121° C melting temperatures of the low-melting solder alloys taught by Melton. Melton illustrates the existence of lower-melting solders that are taught as being useful in microelectronic manufacturing. Thus, Melton shows that the limitation in claim 1, that the "peak exotherm" of the reactive mixture must be "at or above the solder melting point," does not serve to constrain the composition of encapsulants to those suitable for tin-lead eutectic solders.

Claims must be read broadly, in light of the specification. *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1668 (Fed. Cir. 2000); *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). Of course, limitations may not be read from the specification into the claims. *Johnson Worldwide Assoc., Inc. v. Zebco Corp.*, 175 F.3d 985, 992, 50 USPQ2d 1607, 1612 (Fed. Cir. 1999) ("mere inferences drawn from the description of an embodiment of the invention cannot serve to limit claim terms."). The claims are not limited to compositions that meet the temperature criteria appropriate for tin-lead eutectic solder. Accordingly, it would have been obvious for one

of ordinary skill in the art to make and use such encapsulating compositions within the scope of Appellant's claimed subject matter.

As the examiner observed, the claims do not cover a method of encapsulation. (Answer at 5.) Nonetheless, it is necessary to show, as we have, that compositions suggested by the prior art meet all the limitations of the claimed compositions. However, it is irrelevant, in evaluating the patentability of the claimed compositions, whether Christie discloses or renders obvious the encapsulating processes taught by Appellant in his specification.

2. Claims 9, 10, 13, 14, and 26 are rejected as unpatentable under 35 U.S.C. § 103(a) over the teachings of Hunt, alone and in combination with the teachings of Melton.

As discussed *supra,* Hunt teaches formulations comprising bisphenol-A epoxy resins (*id.* at ll.30), various anhydride hardeners (*id.* at ll.47–61), and various curing catalysts, including metal carboxylate salts such as stannous octoate (*id.* at ll.67–68). Hunt teaches that the compositions may be molded by application of temperatures ranging from about 149° to 204° C, preferably about 177° to 191° C. (*Id.* at col. 4, ll.44–48.) These curing temperatures include temperatures higher than the 183° C melting point of tin-lead eutectic solder, and higher than the low-melting solders (85° C

and 121° C) taught by Melton. Thus the limitation that "the gel point of said thermosetting resin cross-link is reached after the solder melt" is clearly met.

The teachings of Hunt support a *prima facie* case of obviousness of the presently claimed subject matter because one of ordinary skill in the art would have been motivated to follow the suggestions of Hunt as to epoxy formulations, hardeners, and catalysts, and would have had a reasonable expectation of successfully obtaining formulations within the scope of Appellant's claims.

3. Claims 28 and 29 are rejected as unpatentable under 35 U.S.C. § 103(a) over the combined disclosures of Hunt, Christie, and Melton.

Claims 28 and 29 require that the fluxing cross-linking anhydride be MTHPA. As discussed *supra*, Christie teaches the use of MTHPA as a cross-linking agent for epoxy resins. As discussed in the preceding rejection, the claimed compositions would have been obvious over Hunt, and it would have been obvious to one of ordinary skill in the art to use MTHPA as the cross-linking anhydride in the compositions taught by Hunt.

Evaluation of evidence of unexpected results

In making these rejections, we have not ignored the evidence presented in the specification Examples 1–8 (specification at 31–39) referred to in the Kirsten declaration (Paper No. 14, entered by the examiner in Paper No. 15). We find, however, that the evidence is not commensurate in scope with the claimed subject

matter, and that the various conditions have not been adequately controlled. Claims 9, 10, 14, 28, and 29, are open to any thermosetting resin; but the examples are limited to epoxy resins (indeed, all inventive examples except some shown in Example 7 use Shell Epon 828, a preferred bisphenol-A resin recited in claim 26). Similarly, Claims 9, 10, and 26 are open to any cross-linking agent that will also act as a fluxing agent, while claims 13 and 14 are open to any polyanhydride; but the examples are limited to MTHPA, which is the preferred fluxing cross-linker recited in claims 28 and 29. Especially telling, as our citation of Melton emphasizes, all the examples use tin-lead eutectic solder, which is not required by any claim. We further note that the melting points of the low-melting solders taught by Melton are well below the 130° C gel point reported in Appellant's Example 5. (Specification at 35.)

As Appellant points out, proposed interchanges of catalysts are suspect, given the "acknowledged unpredictability in the art of catalysts." (Brief at 14.) More concretely, the action of one catalyst in a given system may not be replicated when a different, albeit similar catalyst is substituted for the first catalyst. For essentially parallel reasons, the converse is also true: the action of a given catalyst in a given system is not necessarily replicated when the first system (here, epoxy resin and polyanhydride cross-linking fluxing reagent) is replaced by a different thermosetting resin and a distinct cross-linking fluxing agent. Appellant has not proffered an

"adequate basis for reasonably concluding that the great number of compositions included by the claims would have in the same manner as the [] tested composition." *In re Lindner*, 457 F.2d 506, 508, 173 USPQ 356, 358 (CCPA 1972) (citation omitted); *see also In re Kollman*, 595 F.2d 48, 56, 201 USPQ 193, 199 (CCPA 1979) (evidence demonstrating a trend in the exemplified data that would allow one skilled in the art to extend the probative value to the scope encompassed by the claim may be sufficient to rebut a *prima facie case of obviousness.).* Here, there is no evidence that tin octoate provides the "delayed" gelling for other thermosetting resins that may cross-link by very different mechanisms.

Moreover, we find that it cannot be ascertained from the showing whether the alleged unexpected results are due to the employment of the tin octoate catalyst as alleged (e.g., Brief at 14, first full paragraph), or the utilization of the specific combination of preferred bisphenol-A thermosetting resins and preferred polyanhydride with stannous octoate catalyst. In this regard, we observe that Appellant's Example 7 shows that cycloaliphatic epoxy compositions are not interchangeable with bisphenol-A resins. (Specification at 38.) Thus, the unexpected results cannot be extrapolated even to thermosetting resins in the same class of polyepoxides. *In re Dunn*, 349 F.2d 433, 439, 146 USPQ 479, 483 (CCPA 1965) ("The cause and effect sought to proven is lost here in the welter of unfixed variables.") Appellant has not shown that the different

types of thermosetting polymers or different cross-linking fluxing agents have little or no effect on the outcome.

B. Decision

Upon consideration of the appeal, and solely for the reasons given, the examiner's rejection is reversed.

As a result of the two new grounds of rejection entered under 37 C.F.R. § 196(b), claims 9, 10, 13, 14, 26, 28, and 29 are rejected as unpatentable under 35 U.S.C. § 103(a).

Because our opinion contains a new ground of rejection, applicant, WITHIN TWO MONTHS FROM THE DATE OF ENTRY OF THIS DECISION, must exercise one of the following two options with respect to the new ground of rejection to avoid termination of proceedings (§ 1.197(c)) as to the rejected claims:

(1) Submit an appropriate amendment of the claims so rejected or a showing of facts relating to the claims so rejected, or both, and have the matter reconsidered by the examiner, in which event the application will be remanded to the examiner.

(2) Request that the application be reheard under § 1.197(b) by the Board of Patent Appeals and Interferences upon the same record.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

REVERSED: 37 C.F.R. § 1.196(b)

TERRY J. OWENS
Administrative Patent Judge

PAUL LIEBERMAN
Administrative Patent Judge

MARK NAGUMO
Administrative Patent Judge

) BOARD OF PATENT
) APPEALS AND
) INTERFERENCES

cc (via First Class mail):

LADAS & PARRY
224 SOUTH MICHIGAN AVENUE, SUITE 1200
CHICAGO IL 60604

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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SEP 10 2003

Mailed:

spg
Paper Number 26

In re application of	:	
Kenneth J. Kirsten	:	DECISION ON
Serial No. 08/644,912	:	PETITION
Filed: August 28, 1996	:	
For: ENCAPSULANT WITH FLUXING PROPERTIES AND METHOD OF USE IN FLIP-CHIP SURFACE MOUNT REFLOW SOLDERING	:	

This is a response to the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT, filed July 17, 2003. The request asks that the abandonment, as set forth in the Notice of Abandonment of July 7, 2003, for failure to timely file a proper reply to the Office letter mailed June 14, 2002, be withdrawn since the applicants did timely file a reply on August 14, 2002. (A copy of the reply originally filed on August 14, 2002 is attached to the instant request.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that the applicant's reply was properly filed on August 14, 2002 as evidenced by the properly completed Certificate of Mailing under 37 CFR 1.8(a) attached to each of the papers submitted with the reply. See MPEP 512. It is further noted that the petitioner (see the DECLARATION OF W. DENNIS DREHKOFF attached to the instant petition) has attested on a personal knowledge basis to the previous timely mailing of the reply as is required by 37 C.F.R. 1.8(b)(3). Therefore, the application was never in-fact abandoned. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed June 14, 2002 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed August 14, 2002.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

LADAS & PARRY
224 SOUTH MICHIGAN AVENUE, SUITE 1200
CHICAGO IL 60604

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Paper No. 36

LADAS & PARRY
224 SOUTH MICHIGAN AVENUE, SUITE 1200
CHICAGO, IL 60604

COPY MAILED

MAR 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Kenneth J. Kirsten :
Application No. 08/644,912 : DECISION GRANTING PETITION
Filed: May 28, 1996 : UNDER 37 CFR 313(c)(2)
For: ENCAPSULANT WITH FLUXING :
PROPERTIES AND METHOD OF USE IN FLIP-
CHIP SURFACE MOUNT REFLOW SOLDERING

This is a decision on the petition, filed March 9, 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 December 30, 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 should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1712 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Supplemental Rule 312 Amendment.

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).

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UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAIL

FEB 04 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Takayuki Kijima

Application Serial No.: 08/645,487

Filed: May 13, 1996

For: **DIGITAL IMAGE RECORDING APPARATUS AND DIGITAL IMAGE REPRODUCING APPARATUS HAVING FORMATS CORRESPONDING TO PIXEL CONFIGURATIONS**

ACCEPTANCE OF PAPERS

The "Submission of Copy of Supplemental Brief" filed on December 11, 2003 is being treated as a request for acceptance of papers. This decision is also responsive to the status requests filed July 21, 2005 and December 27, 2005.

The December 11, 2003 submission includes a copy of an original Remarks and Supplemental Appeal Brief (and Appendix) filed September 3, 2002, including a transmittal letter and a petition for a one month extension of time. Applicant has also provided a copy of a post card receipt date-stamped as received by the U.S. Patent and Trademark Office (PTO) on September 3, 2002; wherein the post card receipt itemizes receipt of the above listed items. Furthermore, a review of the Revenue and Accounting Management (RAM) system finds that the necessary fees were received by the PTO on September 3, 2002 and were charged to applicant's deposit account on September 4, 2002.

A review of the file contents find that the originally filed petition for extension of time is of record; however the originally filed Remarks and Supplemental Appeal Brief (and Appendix) cannot be located. Accordingly, it is deemed that the original Remarks and Supplemental Appeal Brief (and Appendix) were timely filed but lost. Any inconvenience caused Owner is regretted.

The request for acceptance of papers is GRANTED.

Accordingly, the copy of the Remarks and Supplemental Appeal Brief (and Appendix) received on December 11, 2003 are accepted as timely filed on September 3, 2002 as evidenced by the date-stamped postcard. The application is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Programs Examiner
Technology Center 2600
Communications

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)
5,744,941	1998-04-28	08645611	1996-05-14	091470-0202

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

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	//Luis E. Bartol//	Date (YYYY-MM-DD)	2008-01-08
Name	Luis E. Bartol		

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. 5744941
Issue Date: April 28,1998
Application No. 08645611
Filed: May 14,1996
Attorney Docket No. BAR-0003P

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

This is a decision on the electronic petition, filed January 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 January 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 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. 24

DAVID H. SITRICK
SITRICK & SITRICK
8340 N. LINCOLN AVE., SUITE 201
SKOKIE, IL 60077

COPY MAILED

NOV 17 2004

OFFICE OF PETITIONS

In re Application of :
David Sitrick :
Application No. 08/645,678 :
Filed: May 14, 1996 :
Attorney Docket No. STD 1563

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 Irvin Dingle at (571) 272-3210.

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

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)
5655443	1997-08-12	08646730	1996-05-01	

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

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	/Charlie Hall/	Date (YYYY-MM-DD)	2009-10-15
Name	Charlie Hall		

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. 5655443
Issue Date: August 12,1997
Application No. 08646730
Filed: May 1,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed October 15,2009 ,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 15,2009 . 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
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PATENT & TRADEMARK OFFICE

Paper No. 12

TREXLER BUSHNELL ET AL.
106 W. ADAMS STREET
36TH FLOOR
CHICAGO, IL 60603

COPY MAILED

JUL 14 2008

In re Patent of	:	
Charles H. Wissman	:	
Patent No.: 5,661,396	:	
Issue Date: 08/26/1997	:	
Application No. 08/646884	:	
Filing or 371(c) Date: 05/08/1996	:	ON PETITION
Title of Invention:	:	
METHOD FOR DETECTING DIGITAL	:	
CARRIER SIGNALS ON TWISTED PAIR	:	
TRANSMISSION LINES	:	

This is a decision on the petition(s) under 37 CFR § 1.378(b) and (c), filed April 16, 2008, to reinstate the above-identified patent. The delay in treating the petitions is regretted.

The petitions are **DISMISSED**.

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

Background

The patent issued August 26, 1997. Patentee could have paid the seven and one half (7½) year maintenance fee between August 26, 2004, and February 26, 2005, without a surcharge, or within the six (6) month grace period between February 27, 2005 and August 26, 2005. Patentee failed to do so; accordingly, the patent became expired on August 27, 2005.

The present petition

Petitioner files the present petition and states that the reason for the unavoidable delay in payment of the seven and one half (7½) year maintenance fee was that the attorney responsible for payment of the maintenance fee, Mr. Steve Wherle, failed to examine emails regarding the

deadline for paying the maintenance fee sent to him from the patent owner's Intellectual Property Coordinator, Computer Packages, Inc. ("CPI").

Petitioner states that Greenlee Textron Inc., ("Greenlee"), was responsible for maintaining the present patent. Greenlee's Intellectual Property Coordinator was CPI. CPI was under specific instructions from Greenlee to automatically pay the maintenance fee for all of Greenlee's patents. Regardless of Greenlee's specific automatic payment instructions to CPI, CPI still sent emails to Greenlee's IP coordinator regarding deadlines for all upcoming maintenance fee due dates, as well as regarding he payment of maintenance fees. Greenlee's IP coordinator at the time the maintenance fee payment was due was Mr. Steve Wherle.

Regarding the present patent, CPI did not automatically pay the seven and one half (7½) year maintenance fee because of a discrepancy in the entity status of the patent, between CPI's records, and those of this Office. On March 3, 2005 and July 22, 2005, CPI sent emails to Mr. Wherle requesting that he confirm the entity status because CPI could not pay the maintenance fee unless the entity status of its records matched that of this Office. On July 29, 2005 CPI sent a final email to Mr. Wherle regarding payment of the maintenance fee, and advising Mr. Wherle that Greenlee would have to pay the seven and one half (7½) year maintenance fee on its own by August 26, 2005 without CPI's involvement because of the entity status discrepancy.

Mr. Wherle did not examine any of the emails.

Applicable Law, Rules and MPEP

Petition to reinstate under 37 CFR 1.378(b)

37 CFR 1.378(b) provides that a patent may be reinstated at any time following expiration of the patent for failure to timely pay a maintenance fee. A petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

> (A) the required maintenance fee set forth in 37 CFR 1.20(e)-(g);
> (B) the surcharge set forth in 37 CFR 1.20(i)(1); and
> (C) 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.

37 CFR 1.378(C), requires a showing that the delay in paying the maintenance fee was unavoidable despite reasonable care being taken to ensure that the maintenance fee would be timely paid. 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. 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. (Emphasis supplied).

As language in 35 U.S.C. § 41(c)(1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. *See 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), *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*, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard.

Because 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. *Ray*, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. *See Patent No. 4,409,763*, supra. *See also* Final Rule entitled "*Final Rules for Patent Maintenance Fees*," published in the *Federal Register* at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the *Official Gazette* at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. 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.

Moreover, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. *Link v. Wabash*, 370 U.S. 626, 633-34 (1962); *Huston v. Ladner*, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); *see also Haines v. Quigg*, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). *Haines v. Quigg*, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); *Smith v. Diamond*, 209 USPQ 1091 (D.D.C. 1981); *Potter v. Dann*, 201 USPQ 574 (D.D.C. 1978); *Ex parte Murray*, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912)(quoting *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); *see also Winkler v.*

Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Opinion

As stated *supra*, a delay caused by the actions or inactions of Patentee's voluntarily chosen representative, here Greenlee's IP Coordinator, Mr. Wherle, does not constitute unavoidable delay. Mr. Wherle's inaction with regard to email notices sent to Mr. Wherle requesting that he confirm the entity status of the present patent, and with regard to the final email to Mr. Wherle regarding payment of the maintenance fee, does not amount to unavoidable delay.

Petitioner may not rely upon a delay caused by the actions or inactions of Mr. Wherle to support an assertion that delayed payment of the maintenance fee was unavoidable.

The standard requires petitioner to demonstrate that Petitioner acted as a reasonably prudent person in the exercise of due care and diligence to ensure the timely payment of maintenance fees. This Office finds that a reasonable person in the exercise of care and diligence would have examined the emails, which were sent in regards to upcoming deadlines for maintenance fee due dates, as well as regarding the payment of maintenance fees, to ensure that maintenance fees were timely paid.

Conclusion

The evidence has been considered; however, Petitioner has failed to demonstrate that the failure to timely pay the maintenance fee was unavoidable.

Petitioner's current options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision. The petition for reconsideration should be entitled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration of this decision must be accompanied by a non-refundable petition fee of $400 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to 'show' that the delay was unavoidable. Therefore, 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 which accompanied the petition.

Petitioner may request a refund of the maintenance fee by writing to the Office of Finance, Refund Section, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Finally, a review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

CC: TREXLER BUSHNELL ET AL.
106 W. ADAMS STREET
36TH FLOOR
CHICAGO, IL 60603

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

MCDERMOTT, WILL & EMERY
28 STATE STREET
BOSTON, MA 02109

COPY MAILED

SEP 24 2001

OFFICE OF PETITIONS

In re Patent No. RE36200 :
Issue Date: April 27, 1999 :
Application No. 08/647,002 : ON PETITION
Filed: May 9, 1996 :
Attorney Docket No. 56379-014 (SDLL-110RE) :

This is a decision on the petition filed August 24, 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 Irvin Dingle at (703) 306-5684. 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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CERTIFICATE

SEP 26 2001

OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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MAR 02 2009

OFFICE OF PETITIONS

In re Patent: 6,083,220
Issued: July 4, 2000
Application No. 08/647,114
Filed: May 9, 1996
For: M203D-D

DECISION ON PETITION

This is a decision on the petition filed under 37 CFR 1.137(b) in the above-identified application filed on November 16, 1999 and supplemented on November 22, 1999.

The petition is **DISMISSED AS MOOT.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 3, 1998, which set a shortened statutory period for reply of three (3) months. An extension of time under the provision of 37 CFR 1.136 (a) was not filed timely. Accordingly, the above-identified application became abandoned on September 4, 1998. A Notice of abandonment was mailed on November 5, 1999.

A review of the record shows that a decision was rendered for the above petition on July 21, 1999. It appears that duplicate petitions (of the January 19, 1999 petition) dated November 16, 1999 and November 22, 199 have been included in the record. The Notice of Abandonment mailed on November 5, 1999 references failure to reply to the June 3, 1998 non-final Office action. The Notice of Abandonment was mailed after the application had already been reinstated with the July 21, 1999 decision. Applicant timely responded to the August 26, 1999 final Office action with the amendment submitted on November 16, 1999. Accordingly, the petition is dismissed as moot.

This application is being referred to the files repository.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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)
5,724,478	1998-03-03	08647713	1996-05-14	188-9000-G

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	/Leon E. Redman/	Date (YYYY-MM-DD)	2007-05-24
Name	Leon E. Redman	Registration Number	26021

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. 5724478
Issue Date: March 3,1998
Application No. 08647713
Filed: May 14,1996
Attorney Docket No. TRU05-P-301

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

This is a decision on the electronic petition, filed May 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 May 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.

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)
6064940	2000-05-16	08/648,429	1996-05-15	n/a

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	/Damon Treitler/	Date (YYYY-MM-DD)	2008-06-30
Name	Damon Treitler	Registration Number	48377

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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In re Patent No. 6064940
Issue Date: May 16,2000
Application No. 08648429
Filed: May 15,1996
Attorney Docket No. REB-01

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

This is a decision on the electronic petition, filed June 30,2008 ,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 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 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.

#18

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NOV 02 2007

OFFICE OF PETITIONS

DANIEL EGGER
2027 W.CLUB BLVD
DURHAM, NC 27705

In re Patent No. 5,832,494 :
Issue Date:November 3, 1998 :
Application No. 08/649,304 : ON PETITION
Filed: May 17, 1996 :
Patentee(s): Daniel Egger et al :

This is a decision on the petition, filed January 25, 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 November 3, 1998. The grace period for paying the second maintenance fee expired on November 4, 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
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P.O. BOX 1450
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Paper No. 50

GLENN K. BEATON, ESQ.
GIBSON, DUMM & CRUTCHER, LLP
1801 CALIFORNIA ST.
SUITE 4100
DENVER CO 80202-2641

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MAR 12 2004

OFFICE OF PETITIONS

In re Patent No. RE 36,639 :
Issued: 4 April, 2000 :
Reissue of Patent No. 5,072,841 :
Issued: 17 December, 1991 : DECISION ON PETITION
Reissue Application No. 08/649,918 :
Filed: 16 May, 1996 :
Attorney Docket No. 18112.FWC :

This is a decision on the petition filed 18 February, 2004, under 37 CFR 1.378(b) to accept the 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 $130 as set forth in 37 CFR 1.17(h). 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 Commissioner.

The present patent is a continuation of a reissue of U.S. Patent No. 5,072,841, issued 17 December, 1991. The first maintenance fee was accepted with a petition under 37 CFR 1.378(c). The second maintenance fee could have been paid from 17 December, 1998, through 17 June, 1999, or with a surcharge during the period from 18 June through 17 December, 1999. Accordingly, the

patent expired at midnight on 18 December, 1999, for failure to timely submit the second maintenance fee.[1]

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, verified 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 (1) above.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

A late 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".[2] Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[3] In this regard:

> The word unavoidable ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities,

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[1]The periods for payment of maintenance fees 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. See 37 CFR 1.362(h).

[2]Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In Re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat 1898)).

[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 by prudent and careful men in relation to their most important business").

> there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

Petitioners assert that the law firm of Gibson Dunn & Crutcher (hereinafter "GDC") assumed responsibility for prosecution of the reissue application and future maintenance fees in 1999. The petition is accompanied by a declaration from petitioners' registered patent attorney Glenn K. Beaton, discussing petitioner GDC's docketing system.

The declaration of attorney Beaton states, in pertinent part:

> 9. The Patent and Trademark Office normally sends Reminder Notices during or near the six-month maintenance fee windows, to the correspondent attorney of record. The Patent and Trademark Office also normally sends Notices of Patent Expiration after the close of the six-month windows if the maintenance fee is not paid.
>
> 10. The normal procedure of Gibson, Dunn & Crutcher is to route all such notices to the docketing clerk. She then cross-checks them against the computer docket to ensure that the deadline in the Notice matched the deadline in the docket. In the case of Notices of Patent Expiration, she cross-checks the Notice against the firm's correspondence files to ensure that the expiration is intentional. I am confident based on my knowledge of our procedures that this procedure[s] was followed in regard to Patent No. 5,072,841. We have no record or memory of the firm ever receiving any such notices.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the

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[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) see also Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141.

Office.[5]

The Commissioner may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable".[6] A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner "exercised the due care of a reasonably prudent person."[7] This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."[8] Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133.[9] Under 35 U.S.C. § 133, the Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[10] However, 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. [11] In view of In re Patent No. 4,409,763,[12] this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

This petition does not satisfy the requirement of 37 CFR 1.378(b)(3). The statements presented in the petition fail to

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

[6] 35 U.S.C. § 41(c)(1).

[7] Ray v. Lehman, 55 F.3d 606, 608-09 (Fed.Cir.), cert. denied, -- U.S. ---, 116 S.Ct. 304, L.Ed.2d 209 (1995).

[8] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[9] In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

[10] 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).

[11] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[12] 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff'd sub nom. Rydeen v. Quigg, 748 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992).

satisfy the showing required to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

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

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance;

(3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[13]

An adequate showing requires:

(A) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

(B) Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

(C) Petitioners must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The present petition lacks the showing required by (1), (2), and (3) above.

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

Petitioners have not supplied statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. In particular, petitioners have not supplied a statement by the docketing clerk, or any other persons having first-hand knowledge of the docketing system and the expiration of the present patent.

Furthermore, petitioners have not provided copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing. Rather, the showing of record is that no action was taken because no notices were received from the USPTO.

Likewise, petitioners have not provided information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

Lastly, most problematic is that petitioners' submission of the maintenance fee appears to be predicated on receipt of a maintenance fee reminder or Notice of Patent Expiration from the USPTO. The failure to receive a Maintenance fee Reminder does not constitute unavoidable delay. Nor does the patentee's lack of knowledge of the need to pay the maintenance fee constitute unavoidable delay.[14] Under the statutes and regulations, the U.S. Patent and Trademark Office has no duty to notify patentee of the requirement to pay maintenance fees or to notify patentee when the maintenance fee is due. It is solely the responsibility of the patentee to assure that the maintenance fee is paid timely to prevent expiration of the patent. The failure to receive the reminder notice (or notice of expiration) and the lack of knowledge of the requirement to pay the maintenance fee will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the USPTO.

As such, it is incumbent upon petitioners to provide, with any renewed petition, a showing that the maintenance fees were docketed for payment, and that payments were scheduled to be timely made, independent of receipt of any maintenance fee-related correspondence from the USPTO.

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[14] See In Re Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988); aff'd Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991), cert. denied, 60 U.S.L.W. 3520 (January 27, 1992). See also "Final Rules for Patent Maintenance Fees," 49 Fed. Reg. 34716, 34722-23 (Aug. 31, 1984).

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. The $130.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the address noted below.

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
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision should be directed to at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Paper No. 53

GLENN K. BEATON, ESQ.
GIBSON, DUMM & CRUTCHER, LLP
1801 CALIFORNIA ST
SUITE 4100
DENVER CO 80202-2641

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OFFICE OF PETITIONS

In re Patent No. RE 36,639 :
Issued: 4 April, 2000 :
Reissue of Patent No. 5,072,841 :
Issued: 17 December, 1991 :
Filed: 16 May, 1996 : DECISION ON PETITION
Attorney Docket No. 18112.FWC :

This is a decision on the petition under 37 CFR 1.378(e), filed on 21 April, 2004, requesting reconsideration of a prior decision which refused to accept under § 1.378(b) the delayed payment of the second and third maintenance fees for the above-referenced patent. This is also a decision on the petition under 37 CFR 1.182 to expedite consideration of the above-identified petition.

The petition is **granted**.

In light of the showing of record, it is concluded that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fees would be timely paid.

Accordingly, the second and third maintenance fees in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

The second maintenance fee of $2,090.00 and the petition fee of $130.00 has been charged to counsel's deposit account, No. 50-2929. Receipt of the third maintenance fee is acknowledged, said fee having been proffered with the petition filed on 18 February, 2004.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition.

However, until otherwise instructed, all future correspondence regarding this patent will be mailed solely to the address of record.

This patent file is being returned to the Files Repository.

Telephone inquiries should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Hershkovitz & Associates
1725 Eye Street, N.W.
Suite 300
Washington DC 20006

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OCT 15 2002

Paper No. 39

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, Minnesota 55402

In re Application of: Jeffrey S. Mailloux et al.	)	**DECISION ON PETITION**
Application No. 08/650,719	)	**UNDER 37 CFR § 1.103(a)**
Filed: May 20, 1996	)	**REQUESTING SUSPENSION**
For: BURST/ PIPELINED EDO MEMORY DEVICE	)	**OF ACTION**

This is a decision on the petition under 37 CFR 1.103(a) filed on September 16, 2002 requesting suspension of action for a period of six (6) months in the instant application.

Petitioner has brought this issue to the attention of the undersigned by means of personal phone calls. Therefore, although this petition would ordinarily be treated at a lower level, the Director will address this petition in the interest of expediting prosecution.

The petition is **DENIED**.

BASIS OF OPINION

The relevant sections of M.P.E.P. §709 and of 37 C.F.R. §1.103 which relate to this petition are reproduced below:

M.P.E.P.§709 Suspension of Action

> A request that action in an application be delayed will be granted only under the provisions of 37 CFR 1.103, which provides for "Suspension of Action." A petition for suspension of action must be presented as a separate paper accompanied by the petition fee, must request a specific and reasonable period of suspension not greater than six months, and must present good and sufficient reasons why the suspension is necessary.

37 C.F. R. § 1.103 Suspension of action.

> (a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in § 1.17(h). Action will not be suspended when a response by the applicant to an Office action is required.

37 C.F. R. § 1.78 Claiming benefit of earlier filing date and cross references to other applications.

> (b) Where two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application.

DECISION

The petition states that applicants have appealed the rejections of all claims in related matter, Application Serial No. *08/984,561,* and that Applicant's representative believes that the issue presented in the appeal with respect to the ***Manning ('864)*** reference is "intertwined integrally with, and dispositive of" the rejections in this application. The fee set forth in 37 C.F.R. §1.117(h) of $130.00 was paid with this submission.

Prosecution of related applications proceed independently. The desire to get a ruling from the Board of Appeals on the patentability of claims prior to investing further resources in prosecuting related matters is not good and sufficient cause to delay prosecution.

Petitioner argues that USPTO resources would be conserved by awaiting a decision of the Board in the related application.

Firstly, prosecution efficiency is better served if the related issues are on Appeal before the Board concurrently and are noted in the required Appeal Brief section "Related appeals and interferences". This affords the board the opportunity to resolve the issues in a compact and efficient manner. Applicant can resolve the common issue expeditiously and efficiently by appealing the common rejection in all the applications.

Furthermore, Petitioner's argument is flawed for at least the following reasons:

(1) The common issue may never be reached in the appeal.

(a) The claims under appeal in the ***'561*** application are rejected under 35 U.S.C. § 103(a) as unpatentable over ***Rosich ('964)*** in view of ***Manning ('864)***.

(b) The claims in the instant application (***'719***) are rejected under 35 U.S.C. § 102(e) as anticipated by ***Manning ('864)***.

Therefore, it is entirely possible that Applicant may prevail at the Board based on a deficiency in either the primary reference, ***Rosich ('964)***, or the propriety of the combination of the references. There may be no guidance from the Board as to the disputed interpretation of ***Manning ('864)*** . In such a case, there would have been no benefit achieved to balance against the harm of delayed prosecution.

(2) A board decision addressing Manning would not be binding as to other pending applications.

Even in the event that the panel hearing the appeal of ***'561*** addresses and rules on the specific issue of contention with respect to the ***Manning ('864)*** reference the result would not be binding in a separate application. Although the Board's reasoning will carry some weight with the Examiner of the other application it would have no precedential effect.

(3) Suspension of prosecution to resolve common issues of art is not in the interest of the USPTO or applicants.

The Office has in exceptional circumstances held groups of cases in abeyance to await resolution of a far reaching ***legal issue*** in which a Decision from the Court of Appeals for the Federal Circuit was imminent. However, if Applicants or Examiners could suspend action in a case whenever there are common issues of art application to be resolved there would be no predictability as to the course of progress of an application through the Patent examination process. Furthermore, such license has the potential of bringing the work of the Office to a standstill.

(4) Suspension is not likely to give petitioner the desired relief.

Suspension under 37 C.F. R. § 1.103 (a) is generally limited to a period of six months. The Appeal Brief in ***'561*** was filed on September 16, 2002. Before a Board Decision can be rendered an Examiner's Answer must be issued and the period for appellant to file an appeal brief must expire before jurisdiction will pass to the Board. The case will then be placed in the queue of cases awaiting hearing and decision. Therefore it is extremely unlikely that a decision will be rendered by a panel of the Board of Appeals prior to the expiration of six months from this decision.

CONCLUSION

Accordingly, since there is no showing of good and sufficient cause to further delay prosecution, as required under 37 C.F.R. §1.103(a), the **REQUEST** for **SUSPENSION** is **DENIED**.

Insofar as there are common elements within the disclosures and claims of related application, Applicant is reminded that (as per 37 C.F.R. §1.78(b)) if there are conflicting claims Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. (*See* MPEP § 822.)

The application file is being forwarded to the Examiner of record for appropriate action.

Stewart J. Levy, Group Director
Technology Center 2100
Computer Security, Architecture, and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

HOFFMAN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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MAY 10 2006

OFFICE OF PETITIONS

In re Patent No. 5,697,970	:	
Issued: 16 December, 1997	:	
Application No. 08/650,783	:	DECISION ON PETITION
Filed: 20 May, 1996	:	
For: THINLY WOVEN FLEXIBLE GRAFT	:	

This is a decision on the petition under 37 CFR 1.378(c),[1] filed on 3 March, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued on 16 December, 1997. The window for payment of the second maintenance fee installment with a surcharge closed on 16 December, 2005. 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.

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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.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STEPHEN WREN
6 Monarch Trace Court, #102
Chesterfield, MO 63017

Mail Date: 06/25/2010

Applicant	: STEPHEN C. WREN	: DECISION ON REQUEST FOR
Patent Number	: 7624044	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 08/650,834	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/20/1996	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **939** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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)
5880570	1999-03-09	08651134	1996-05-21	ID 054407

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	/DJCushing/	Date (YYYY-MM-DD)	2007-11-12
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.**

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. 5880570
Issue Date: March 9,1999
Application No. 08651134
Filed: May 21,1996
Attorney Docket No. 8861-113-(P1

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

This is a decision on the electronic petition, filed November 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 November 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
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Alexandria, VA 22313-1450
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Paper No. 14

CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON, DC 20006

MAILED

NOV 25 2009

OFFICE OF PETITIONS

In re Patent No. 5,745,841 :
Issue Date: April 28, 1998 :
Application No. 08/651,981 : ON PETITION
Filed: May 20, 1996 :
Attorney Docket No. 27592-01166-US :

This is a decision on the petition filed August 17, 2009, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Douglas O. Reudink, Kirkland, WA; Mark Reudink, both of Bellevue, WA; Sheldon Meredith, Redmond, WA."

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from DONG WHA PHARM. IND, CO., LTD to Douglas O. Reudink, Kirkland, WA; Mark Reudink, Seattle WA; Sheldon Meredith, Redmond, WA. was recorded on March 29, 1999, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

MAIL

JUN 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

McDermott, Will & Emery
600 13th Street, N.W., Suite 1200
Washington DC 20005-3096

In re Application of
Ichiro Kawamura, et al.
Application No. 10/014,431
Filed: December 14, 2001
For: **RECORDING MEDIUM CARTRIDGE AND SIGNAL RECORDING APPARATUS**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed April 6, 2005 to withdraw holding of abandonment pursuant to 37 C.F.R.§ 1.181(a). No fee is required.

The petition is **GRANTED.**

The application was abandoned for failure to respond in a timely and effective manner to the non-final Office action mailed December 4, 2002. A Notice of Abandonment was mailed on March 28, 2005.

Petitioner asserts that a proper response was timely filed on March 4, 2003. In support of the petition, Petitioner has submitted, a copy of Applicant's reply including a Terminal Disclaimer and Supplemental Declaration and a date-stamped post card receipt evidencing receipt of the response within the United States Patent & Trademark Office on March 4, 2003.

The original correspondence filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The fees submitted with the original response have been received and credited to the instant application.

In view of the above stated reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center's technical support staff for entering the copy of the response submitted with the petition. From there, the file will be forwarded to the examiner for further examination in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.go

Paper No. 23

MARK L. BOSSE
GILEAD SCIENCES, INC.
333 LAKESIDE DRIVE
FOSTER CITY, CA 94404

COPY MAILED

FEB 1 1 2003

OFFICE OF PETITIONS

In re Application of :
Norbert W. Bischofberger et al :
Application No. 08/653,034 : ON PETITION
Filed: May 24, 1996 :
Attorney Docket No. 205.5 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 9, 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 April 22, 1998, which set a shortened statutory period for reply of three (3) months. One month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on August 24, 1998.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on October 9, 2002.

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 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).

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

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)
5977785	1999-11-02	08654311	1996-05-28	ID 004009 (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

	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	/DJCushing/	Date (YYYY-MM-DD)	2009-01-27
Name	David J. Cushing	Registration Number	28701

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
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In re Patent No. 5977785
Issue Date: November 2,1999
Application No. 08654311
Filed: May 28,1996
Attorney Docket No. ORCL955004:4

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

This is a decision on the electronic petition, filed January 28,2009 ,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 January 28,2009 . 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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SUN MICROSYSTEMS/FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:
Tognazzini	:
Application No. 08/655,136	: Decision on Petition for
Filing Date: May 30, 1996	: Patent Term Extension
Attorney Docket No.: 06202.0435	:
For: CATALOG PHONE SALES TERMINAL	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Pre-grant Application For Patent Term Adjustment," received on December 29, 2005.

The petition is GRANTED.

Petitioner notes that the Notice of Allowance dated October 12, 2005, in the above-identified application incorrectly stated that the patent term extension was 381 days. Petitioner argues that applicant is entitled to 1569 days of patent term extension, not the 381 days of extension as stated in the Notice of Allowance.

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 first Notice of Appeal was filed in the above-identified application on November 25, 1998. On August 30, 2002, the Board of Appeals and Interferences reversed 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 November 25, 1998, the date that the Notice of Appeal was filed and ending on August 30, 2002, the date of the final decision in favor of the applicant. Three years after the earliest effective filing date of the application is May 30, 1999. 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 first period of extension is 1,189 days, the period from May 30, 1999 to August 30, 2002, including the beginning and end dates.

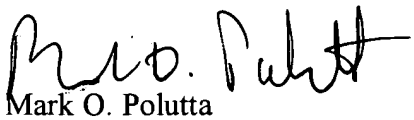
A second Notice of Appeal was filed in the above-identified application on June 15, 2004. On June 30, 2005, the Board of Appeals and Interferences affirmed-in-part the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there 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 June 15, 2004, the date that the Notice of Appeal was filed and ending on June 30, 2005, the date of the final decision in favor of the applicant. Three years after the earliest effective filing date of the application is May 30, 1999. 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 second period of extension is 381 days, the period from June 14, 2004 to June 30, 2005, including the beginning and end dates.

As a result, the period of extension is **1,570** days, the period from May 30, 1999 to August 30, 2002, including the beginning and end dates and the period from June 14, 2004 to June 30, 2005, including the beginning and end dates.

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 **1,570 days**

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 Petition fee $200 for the petition under 37 CFR 1.705(b) is not required for this petition under 37 CFR 1.181 and the fee has been refunded to petitioner's Deposit Account (06-0916).

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

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)
5669637	1997-09-23	08655440	1996-05-29	OPTI18639

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. Denkenberger/	Date (YYYY-MM-DD)	2009-09-29
Name	John D. Denkenberger	Registration Number	44060

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. 5669637
Issue Date: September 23,1997
Application No. 08655440
Filed: May 29,1996
Attorney Docket No. OPTI18639

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

This is a decision on the electronic petition, filed September 29,2009 ,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 29,2009 . 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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

SEP 28 2000

Paper No. 12

In re Application of :
Heinz Focke *et al* : DECISION ON PETITION
Application No. 08/655,833 :
Filed: May 31, 1996 :
Attorney Docket No. FOC-475-US

This is a decision on the petition filed on December 8, 1997 which has recently been referred to the undersigned for consideration under 37 CFR 1.181 as a petition to withdraw the holding of abandonment for failure to pay the Issue Fee. No fee is required for the petition.

The petition is granted.

Petitioners allege that the holding of abandonment is in error because the Issue Fee was in fact timely paid on July 15, 1999. A review of the evidence attached to the petition and of the evidence in the reconstructed file, shows that the Issue Fee was in fact timely paid on July 15, 1997 because receipt of a check number 11627 was acknowledged by means of a PTO date stamp for that date which appears on a copy of a post card receipt furnished by petitioners. Office assignment records also show that an assignment was recorded for this application and that the assignment mail date is July 15, 1997. As the check received on July 15, 1997 is shown by the transmittal letter to having included the fee for recording an assignment as well as the Issue Fee, the recording of the assignment supports a conclusion that this application was improperly held to be abandoned because a check for the Issue Fee was in fact received on July 15, 1997.

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 Office of Patent Publication for processing into a patent.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Ableman, Frayne and Schwab
150 East 42nd Street
New York, NY 10017-5612

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. ~~16~~ 17

ABELMAN FRAYNE & SCHWAB
150 EAST 42ND STREET
NEW YORK, NEW YORK 10017-5612

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Heinz Focke et al :
Application No. 08/655,833 :
Filed: May 31, 1996 :
Attorney Docket No. EOC-475-US :

This is in response to the communication received by facsimile transmission on October 5, 2001, which is being treated as a petition requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **granted**.

A Notice of Abandonment was mailed on September 24, 2001 indicating that the issue fee had not been received. This Notice of Abandonment is based on nonpayment of the issue fee required by the second Notice of Allowance and Issue Fee Due mailed January 11, 2001.

Petitioner states that a favorable decision dated September 28, 2000, determined that the original issue fee required by the Notice of May 16, 1997 and due on or before August 18, 1997, was in fact timely received by the Patent and Trademark Office on July 15, 1997. However, instead of passing the case to issue, a new Notice of Allowance and Issue Fee Due was mailed on January 11, 2001. Petitioner has supplied a copy of his "Response to Notice of Allowance," which explains that this application was previously allowed and an issue fee was paid on July 15, 1997.

The original application file was lost in the Patent and Trademark Office and, as a result thereof, the attorney was requested to supply a copy of his file to reconstruct the file. Based on the attorney's copy, the file was reconstructed. The original file has since been located and the papers of the reconstructed file have been merged with the original application file.

Based on the evidence submitted, the Office, on September 28, 2000, found the issue fee to have been timely submitted and withdrew the holding of abandonment. At that time, the application should have been passed to issue, but, instead, and as noted by petitioner, a new Notice of Allowance was mailed on January 11, 2001.

In response to the new Notice mailed on January 11, 2001, petitioner, on February 23, 2001, timely filed a communication entitled "Response to Notice of Allowance," which stated that the application was previously allowed and an issue fee had been paid accordingly on July 15, 1997. This timely request will be treated as a request to apply the previously paid issue fee to the new Notice.

Since a reply to the second Notice was timely received, the holding of abandonment is withdrawn and the application restored to pending status.

Office records fail to disclose processing of the $1,290 issue fee paid on July 15, 1997. Accordingly, on October 29, 2001, petitioner submitted an authorization to charge the issue fee and the assignment fee (which fees were acknowledged by the Office as having been received on July 15, 1997). Therefore, as authorized, the fee due ($1,280) as required by the new Notice of January 11, 2001 will be charged to petitioner's deposit account. Further, since the assignment fee for the recorded assignment of July 15, 1997 was never processed, $40 for the assignment recording fee will also be charged to petitioner's deposit account.

Telephone inquiries specific to this decision on petition should be directed to the undersigned at (703) 305-8680. Any questions concerning the issuance of this application into a patent should be directed to Customer Services at (703) 308-6789.

This application will be forwarded to Publishing Division for processing into a patent.

Frances Hicks

Frances Hicks
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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COPY MAILED

JUN 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Johannes P. Verduijn	:	
Application No. 08/211,873	:	DECISION ON TWO PETITIONS
Filed: June 3, 1994	:	PURSUANT TO 37 C.F.R.
Attorney Docket No.: 91A055	:	§ 1.53(d) and 1.182
Title: NANOMETER-SIZED	:	
MOLECULAR SIEVE CRYSTALS OR	:	
AGGLOMERATES AND PROCESSES FOR	:	
THEIR PRODUCTION	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.181(a)(3)" filed December 30, 2008, requesting the Office to act on a File Wrapper Continuation (FWC) that was filed in the present application on June 3, 1996. This submission is being treated as a petition pursuant to 37 C.F.R. § 1.53(d).

This is also a decision on the petition pursuant to 37 C.F.R. § 1.182, filed on February 27, 2009, requesting expedited handling of the above matter.

The petition for expedited review under 37 CFR 1.182 is **granted**.

The petition under 37 CFR 1.53(d) is **granted**.

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ON PETITION FOR EXPEDITED REVIEW

37 C.F.R. 1.182 provides that:

> 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 Director, 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(f).

The present request is properly treated under 37 C.F.R. § 1.182 as the expedited review of petitions is not specifically provided for in the regulations. The petition includes the fee required for such consideration. It is determined that consideration of the petition under 37 C.F.R. § 1.53(b) out of turn is justified.

The Petition under 37 C.F.R. 1.182 for expedited review is **GRANTED.**

Accordingly, consideration now turns to the Petition under 37 C.F.R. § 1.53(d).

**ON PETITION UNDER 37 C.F.R. 1.53(D)
TO ACCEPT AND TREAT AN IMPROPER APPLICATION UNDER § 1.53(D) AS A PROPER APPLICATION UNDER § 1.53(B)**

The application was deposited on June 3, 1994. A final rejection was mailed on October 2, 1995. On March 22, 1996, and after-final amendment was received. A notice of appeal was filed on April 4, 1996, along with a three-month extension of time so as to make timely these two responses. An advisory action was mailed on May 3, 1996, which indicated that the after-final amendment failed to place this application in consideration for allowance. An appeal brief was not filed subsequent thereto - no response, and no further extensions of time were received. Consequently, this application went abandoned by operation of law on June 5, 1996. A notice of abandonment was mailed on November 15, 1996.

With this petition, Petitioner has asserted that a FWC application was timely submitted on June 3, 1994. Petitioner has submitted a copy of a German reference (Number 1194828), a copy of international application number PCT/EP92/02386, a copy of foreign application number 1-153514, a preliminary amendment, an information disclosure statement, a 20-page specification, two pages of claims, a single-page abstract, 18 pages of drawings,

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and a postcard receipt which evinces that a "1.62 Continuation of 08/211,873, Preliminary Amendment, FORM 1449, and references" were received in the Office in June of 1996[1] and this FWC application was accorded an application number of 08/656,725 (Office records show that the filing fee of $862 was received on June 3, 1996).

The Federal Register sets forth, *in pertinent part*:

> *Section 1.62*
> Section 1.62 is removed and reserved.
> Section 1.62 is unnecessary due to the addition of § 1.53(d) to permit the filing of a continued prosecution application.
> It is anticipated that applications purporting to be applications filed under §§ 1.60 or 1.62 will be filed until the deletion of §§ 1.60 and 1.62 become well known among patent practitioners. An application purporting to be an application filed under § 1.60 will simply be treated as a new application filed under § 1.53 (*i.e.*, the reference to § 1.60 will simply be ignored).
> Applications purporting to be an application filed under § 1.62 will be treated as continued prosecution applications under § 1.53(d), and those applications that do not meet the requirements of § 1.53(d) (*e.g.*, continuation-in-part applications or continuations or divisional of applications filed before June 8, 1995) will be treated as improper continued prosecution applications under § 1.53(d). Such an improper application under § 1.53(d) may be accepted and treated as a proper application under § 1.53(b) by way of petition under § 1.53(e) (and submission of the $130 fee pursuant to § 1.17(i)). A petition under § 1.53(e) to accept and treat an improper application under § 1.53(d) as a proper application under § 1.53(b) must include: (1) The $130 petition fee; (2) a true copy of the complete application designated as the prior application in the purported § 1.62 application papers; (3) any amendments entered in the prior application; and (4) any amendments submitted but not entered in the prior application and directed to be entered in the purported § 1.62 application papers. In an application purporting to be a continuation or divisional application under § 1.62, the true copy of the prior application will constitute the original disclosure of the application under § 1.53(b), and any amendments entered in the prior application or not entered in the prior application but directed to be entered in the purported § 1.62 application papers and submitted with the § 1.53(e) petition will be entered in the application under § 1.53(b) and considered by the examiner for new matter under 35 U.S.C. 112, ¶ 1, and 132 (emphasis added). In an application purporting to be a continuation-in-part application under § 1.62, the true copy of the prior application, any amendments entered in the prior application or not entered in the prior application but directed to be entered in the purported § 1.62 application papers and submitted with the § 1.53(e) petition, and any preliminary amendment submitted with the purported § 1.62 application will constitute the original

1 The exact date is not legible, but appears to be June 10, 1996.

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> disclosure of the application under § 1.53(b). See comments relating to § 1.53.
>
> *62 Fed Reg 53131 at 53147*

Pursuant to the section of the Federal Register reproduced above, the filing of this FWC application will be treated as an improper application under § 1.53(d).

The $130 fee that is associated with the filing of this petition will be charged to Petitioner's Deposit Account in due course.

Petitioner has submitted a true copy of the complete application designated as the prior application in the purported Rule 1.62 application papers, along with a preliminary amendment that was included on initial deposit of the FWC application.

The papers that have been submitted with this petition that are associated with application number 08/656,725 will be copied and placed into the electronic file that is associated with application number 08/656,725 in due course.

Pursuant to this decision, the application will be referred to the Office of Patent Application Processing (OPAP) for further processing. **OPAP will treat application number 08/656,725 as a continuation of application number 08/211,873.**

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[2]

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123) is enclosed.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

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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

Paper No.

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BAYTOWN TX 77520

COPY MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Johannes P. Verduijn	:	
Application No. 08/211,873	:	CORECTED DECISION ON
Filed: June 3, 1994	:	PETITION PURSUANT TO
Attorney Docket No.: 91A055	:	37 C.F.R. § 1.53(d)
Title: NANOMETER-SIZED	:	
MOLECULAR SIEVE CRYSTALS OR	:	
AGGLOMERATES AND PROCESSES FOR	:	
THEIR PRODUCTION	:	

On December 30, 2008, Applicant filed a "PETITION UNDER 37 CFR § 1.181(a)(3)" requesting the Office to act on a File Wrapper Continuation that was filed in the present application on June 3, 1996. This submission was treated as a petition pursuant to 37 C.F.R. § 1.53(d), and on June 4, 2009, the Office granted the petition via the mailing of a decision which directed the Office of Patent Application Processing (OPAP) to treat this application as a *continuation* of application number 08/211,873.

The decision should have directed OPAP to treat the present application as a *File Wrapper Continuation* of application number 08/211,873.

Pursuant to this corrected decision, the application will be referred to (OPAP) for further processing. **OPAP will treat application number 08/656,725 as a File Wrapper Continuation of application number 08/211,873.**

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Copied from 08211873 on 10/29/2009

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[1]

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address 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 will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123) is enclosed.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 37

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

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APR 19 2005

OFFICE OF PETITIONS

In re Application of :
Bartsch et al. :
Application No. 08/656,811 : ON PETITION
Filed: June 3, 1996 :
Attorney Docket No. :
0575/50865/JPW/AJM/BJA

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 6, 2004, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

The above-identified application was held abandoned for 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 October 29, 2002, and no extensions of time under the provisions of 37 CFR 1.136(b) 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 was held abandoned on December 30, 2002. See MPEP 1215.04. A Notice of Abandonment was mailed on June 30, 2003.

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 13, 2002 of 1. a 2 page RCE Request Transmittal (in triplicate); 2. a Preliminary Communication; 3. and a check in the amount of $370.00. Additionally, petitioner has supplied a copy of the previously mailed correspondence, along with the Express Mail certificate, which bears a certificate of mailing date of December 13, 2002.

The reply acknowledged as having been received in the USPTO on December 13, 2002 is not of record in the application file and cannot be located. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Further, a review of USPTO financial records indicates the $370.00 check was processed on December 16, 2002. Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. The $685.00 petition fee will be credited to petitioner's deposit account as authorized.

The Office sincerely apologizes for the inconvenience caused the petitioner in this matter.

This application is being returned to Technology Center AU 1646 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 22

ARNOLD & PORTER
555 TWELFTH STREET
WASHINGTON, DC 20004-1206

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MAR 1 2 2002

OFFICE OF PETITIONS

In re Application of
Metz et al.
Application No. 08/657,749
Filed: May 30, 1996
Attorney Docket No. 16518.025

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 5, 2001, to revive the above-identified application.

The petition is **DISMISSED**.

A non-final Office Action was mailed on June 23, 1998 ("6/23/98 Office Action"), setting forth a 1-month shortened statutory period for reply. A request for a 3-month extension of time (Certificate of Mailing date October 21, 1998) was filed on October 26, 1998, extending the due date for the reply to October 23, 1998.[1] However, no response was filed on or before October 23, 1998, and no further extensions of time were obtained under 37 CFR 1.136(a). Consequently, this application became abandoned on October 24, 1998 for failure to timely submit a proper reply to the 6/23/98 non-final Office Action.[2] A Notice of Abandonment was mailed on March 17, 1999.

Implied request to withdraw holding of abandonment

The instant petition alleges that a reply to the 6/23/98 Office Action was mailed on October 21, 1998, apparently implying that the application should not be held abandoned. In support, a copy of Applicants' postcard receipt bearing a PTO date-stamp of October 26, 1998 is enclosed.

A postcard receipt which itemizes and properly identifies the papers being filed would serve as *prima facie* evidence of receipt in the PTO of **all the items listed thereon** on the date stamped

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[1] The petition, on page 2, in essence argues that Applicants have extended the due date for reply by 4 months, because of the 3 months specifically requested and the "general authorization" for the PTO to charge for additional needed extensions of time for submitting the allegedly mailed 10/21/98 reply. This argument apparently is based on counsel's misunderstanding of the PTO rules. If a proper reply to the 6/23/98 Office Action cannot be proven to have been mailed as alleged, the "general authorization" is irrelevant. On the contrary, if the reply was indeed mailed on 10/21/98 with a proper certificate of mailing, it would have been considered "timely" when including the 3-month extension of timen obtained. Counsel's apparent belief that an additional month is required to cover the gap between 10/24/98 and 10/26/98 (PTO receipt date) is incorrect. See discussions, *infra*.

[2] 35 U.S.C. 133.

thereon by the PTO.[3] Unfortunately, Applicants' postcard receipt lists only 2 items: "Transmittal letter," and "Request for extension of time," both of which have been received by the PTO and are in the file for this application. Evidently, Applicants cannot rely on this postcard to support the assertion that a reply, which is not listed on this postcard, was received by the PTO on October 26, 1998.

Also submitted with the petition for supporting the above assertion is a copy of the October 26, 1998 transmittal letter for the allegedly mailed reply, showing a Certificate of Mailing date of October 21, 1998. Correspondence in response to an Office action will be considered timely filed in the PTO if it is deposited as first class mail with the U.S. Postal Service in accordance with the procedure set forth in 37 CFR 1.8(a). However, when such a correspondence is not received by the PTO, and in order to have the non-received correspondence considered timely filed, i.e., filed on the date shown in the certificate of mailing, 37 CFR 1.8(b)(3) requires a statement **attesting on a personal knowledge basis** . . . to the previous timely mailing. The contention that a reply to the 6/23/98 Office Action was mailed on October 21, 1998 as indicated by the certificate of mailing does not appear to be based on personal knowledge[4] and is likewise not convincing. The holding of abandonment for this application thus is not withdrawn.

Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a grantable petition to revive an abandoned application must be accompanied by: **(1) the required reply to the outstanding Office action** or notice, unless previously filed;[5] (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) a terminal disclaimer and the accompanying fee for a utility application filed before June 8, 1995, as required by 37 CFR 1.137(d).[6]

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[3] MPEP section 503 (Aug. 2001). See also 37 CFR 1.6 (Receipt of correspondence).

[4] The practitioner signing the instant petition was appointed by the assignee of this application, CALGENE LLC, to prosecute this application in a Power of Attorney executed on 4/13/01 and filed in the PTO on 5/22/01, 2½ years after 10/21/98, and appears to have made this statement based on hearsay rather than personal knowledge.

[5] A required reply in the instant case may be either: an amendment that appears throughout to be a *bona fide* attempt to advance the application to final action, e.g., a proper election in response to the 6/23/98 restriction requirement; or, the filing of a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). See MPEP section 711.03(c)(III)(A)(2)(a) (Aug. 2001).

[6] Not applicable to this application.

Regarding (1) above, the 6/23/98 non-final Office Action contains a restriction requirement.[7] The reply submitted with the instant petition purports to elect Invention I which comprises Claims 1-13, 17, 29; but erroneously cancels Claims 4-16.[8] This reply is thus non-responsive to the 6/23/98 non-final Office Action, and does not satisfy the provisions of 37 CFR 1.137(b)(1).[9]

As for item (3), **this application has been abandoned for over 3 years.** The instant petition merely indicates that "the entire delay was unintentional" but does not contain the statement required by 37 CFR 1.137(b)(3).

The petition to revive under 37 CFR 1.137(b) is thus dismissed.

Any request for reconsideration of this decision (no fee), to be grantable, must be:

-accompanied by:

-a proper election required in item (1) above; and
-a statement, required in item (3) above, 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;

-filed within **TWO (2) MONTHS** from the mailing date of this decision unless proper extensions of time are obtained under 37 CFR 1.136(a);[10] and

-addressed as instructed below:

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 CP4-3C23
2201 South Clark Place
Arlington, VA 22202

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[7] Paper No. 13.

[8] The elected Invention I is claimed partly in Claims 4-13.

[9] See MPEP section 711.02(a) (Aug. 2001) (Abandonment may result . . . where applicant's reply is timely but is not fully responsive to the Office action.), and 711.03(c)(III)(A) (Aug. 2001) (Generally, the "required reply" [under 37 CFR 1.137(b)(1)] is the reply sufficient to have avoided abandonment, had such reply been timely filed.).

[10] 37 CFR 1.137(e)(1).

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RC Tang
Petitions Attorney
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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DW 08-02

Paper No. 26

ARNOLD & PORTER
555 TWELFTH STREET
WASHINGTON, DC 20004-1206

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MAY 28 2002

OFFICE OF PETITIONS

In re Application of
Metz et al.
Application No. 08/657,749
Filed: May 30, 1996
Attorney Docket No. 16518.025

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on May 13, 2002 (Monday), to revive the above-identified application.

The renewed petition is **GRANTED.**

The application became abandoned on October 24, 1998 for failure to timely submit a proper reply to a non-final Office Action, mailed on June 23, 1998, setting forth a 1-month shortened statutory period for reply.[1] The September 5, 2001 petition to revive was dismissed on March 12, 2002 for lacking the reply and the statement of unintentional delay required by 37 CFR 1.137(b)(1) and (b)(3), respectively.

The instant petition encloses a "Response to Restriction Requirement" as reply to the June 23, 1998 non-final Office Action, and a statement required by 37 CFR 1.137(b)(3) that the entire delay in filing the required reply from its due date until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[2] The renewed petition is thus granted.

No fee is incurred for a renewed petition under 37 CFR 1.137(b).

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[1] Applicants obtained a 3-month extension of time on 10/26/98 (Certificate of mailing date 10/21/98).

[2] Contrary to counsel's assertion, the 9/5/01 petition did not contain the statement required under 37 CFR 1.137(b)(3). Counsel's being argumentative on this point indicates counsel's unfamiliarity with the pertinent statute, rules, PTO practice, and the underlying rationale. The delay at issue is contained in 2 periods: 1 spanning from when the reply is due to when the application becomes abandoned; the other from the date of abandonment to when a grantable petition under 37 CFR 1.137 is filed. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. The Office relies on the applicant's/attorney's duty of candor and good faith in accepting a 37 CFR 1.137(b)(3) statement. Had the application not been abandoned for an extensive period of time such as more than 3 years in the instant case upon filing of the 9/5/01 petition, a statement that "the entire delay was unintentional" may have been construed as meeting the requirements of 37 CFR 1.137(b)(3) and consequently accepted. Counsel is reminded that if an applicant intentionally delays the filing of such a petition, a statement that the entire delay was unintentional is inappropriate and may have an adverse effect when attempting to enforce any patent resulting from the application. See MPEP 711.03(c)(III)(C) (Aug. 2001).

The associate power of attorney has been entered and made of record.

The application file is being returned to Technology Center 1600 for review of the "Response to Restriction Requirement" submitted with the instant petition and the accompanying argument contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of :
Van Der Lely et al. :
Application No. 08/658,176 : DECISION ON PETITION
Patent No. 5,865,138 : PURSUANT TO
Filed: June 4, 1996 : 37 C.F.R. § 1.28(c)
Issued: February 2, 1999 :
Attorney Docket No. 8553/107 :
Title: A METHOD AND APPARATUS :
FOR AUTOMATICALLY MILKING :
ANIMALS, SUCH AS COWS :

This is a notice regarding your submission of May 7, 2009, which is properly treated as a request for acceptance of a fee deficiency submission under 37 C.F.R § 1.28(c). 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 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and

(d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Your fee deficiency submission under 37 C.F.R. § 1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This patent is now listed as a large entity.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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)
5,865,721	1999-02-02	08/658,386	1996-06-05	3602-121

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	/Brett M. Pinkus/	Date (YYYY-MM-DD)	2008-02-28
Name	Brett M. Pinkus	Registration Number	59980

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. 5865721
Issue Date: February 2,1999
Application No. 08658386
Filed: June 5,1996
Attorney Docket No. B0221/7079

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

This is a decision on the electronic petition, filed February 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 February 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 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)
5,638,641	1997-06-17	08/659,494	1996-06-06	

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	/David M. LaPrairie/	Date (YYYY-MM-DD)	2009-08-11
Name	David M. LaPrairie	Registration Number	46295

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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Alexandria, VA 22313-1450
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In re Patent No. 5638641
Issue Date: June 17,1997
Application No. 08659494
Filed: June 6,1996
Attorney Docket No. 7587-C

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

This is a decision on the electronic petition, filed August 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 August 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAY 30 2007

Teresa Stanek Rea
Burns, Doane, Swecker & Mathis
PO Box 1404
Alexandria VA 22313-1404

Re: Patent Term Extension
Application for
U.S. Patent No. 5,698,594

ACKNOWLEDGMENT OF WITHDRAWAL OF APPLICATION FOR PATENT TERM EXTENSION IN RESPONSE TO REQUIREMENT FOR ELECTION

This is in response to the Requirement for Election response filed on February 13, 2007 for patent term extension for U.S. Patent No. 5,698,594 (OMACOR® (EPA ethyl ester and DHA ethyl ester)).

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: OMACOR® (EPA ethyl ester and DHA ethyl ester)
FDA Docket No.: 2005E-0247

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)
5,876,526	1999-03-02	08660453	1996-06-07	HTA-101-A

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 Blackman/	Date (YYYY-MM-DD)	2007-05-25
Name	William Blackman	Registration Number	32397

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. 5876526
Issue Date: March 2,1999
Application No. 08660453
Filed: June 7,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed May 25,2007 ,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 25,2007 . 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.

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 10-18-01

Paper No.:

TO : Supervisor, Art Unit 2317

SUBJECT : Certificate of Correction Request in Patent No.: 5617539

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 C.F.R. 1.323, correcting Applicant/Attorney's (A or Atty.) errors, constitute new matter or require reexamination of the application?

☑ 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 –915/922,
Thank you

E. James
Legal Instrument Examiner
Tel. No.

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 –915/922

Please do not send it back. Thank

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	☐ NO	☐ Comments below
☐ 5.YES	☐ NO	☐ Comments below

☐ Comments _____

~~Supervisor~~ Dung C. Dinh
Primary Examiner

Art Unit 2813

PTOL-306 (REV. 10/87)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington DC 20037

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Ludwig et al.	:	
Application No. 08/660,460	:	ON PETITION
Filed: June 7, 1996	:	
Attorney Docket No. VCOR-001/03U	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 17, 2009. 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 **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

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

By Mail: Mail Stop PETITION
Commissioner for Patents
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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Lester F. Ludwig
Avistar Communications Corp.
1875 South Grant Street, 10th Floor
San Mateo, CA 94402

NOTICE RE: CERTIFICATES OF CORRECTION #16

DATE : 11-1-00

TO : Supervisor, Art Unit 2702756

SUBJECT : Certificate of Correction Request in Patent No. 5,758,079

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 pplication?

☐ 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?

☐ 4. With respect to the change(s) requested, correcting Office 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 ROOM 918, PK III

Marietta Joyce

Legal Instrument Examiner

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	☐ NO	☐ Comments below
☐ 5.YES	☐ NO	☐ Comments below

☐ Comments _____

Dung C. Dinh
Primary Examiner

Supervisor | Art Unit

PTOL-306 (REV. 10/87) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 45

MORGAN & FINNEGAN
345 PARK AVENUE
NEW YORK, NY 10154

COPY MAILED

OCT 0 9 2002

OFFICE OF PETITIONS

In re Application of
Shigeki Sakurai et al
Application No. 08/660,920
Filed: June 10, 1996
Attorney Docket No. 1232-4272US2

ON PETITION

This is a decision on the petition, filed October 7, 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 August 27, 2002 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.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2684 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

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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.**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#58

MORGAN & FINNEGAN LLP
345 PARK AVENUE
NEW YORK, NY 10154

COPY MAILED

MAR 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Kenichi Fujii :
Application No. 08/660,920 : ON PETITION
Filed: June 10, 1996 :
Attorney Docket No. 1232-4272US2

This is a decision on the petition, filed March 18, 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 November 24, 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 should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2682 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
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).

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)
5693885	1997-12-02	08661189	1996-06-10	Neidell

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	/Jason C. Huang/	Date (YYYY-MM-DD)	2007-08-22
Name	Jason C. Huang	Registration Number	46222

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. 5693885
Issue Date: December 2,1997
Application No. 08661189
Filed: June 10,1996
Attorney Docket No. A96017US

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

This is a decision on the electronic petition, filed August 22,2007 ,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 22,2007 . 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.

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)
6,175,854	2001-01-16	08/661,428	1996-06-11	823/211

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	/PeterKTrzyna/	Date (YYYY-MM-DD)	2009-02-27
Name	Peter K. Trzyna, Esq.	Registration Number	32601

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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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. 6175854
Issue Date: January 16,2001
Application No. 08661428
Filed: June 11,1996
Attorney Docket No. 823/211

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

This is a decision on the electronic petition, filed February 27,2009 ,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 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.

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

Daly, Crowley & Mofford, LLP
275 Turnpike Street, Suite 101
Canton, MA 02021

JUL 16 2002

In re Application of
DOUGLAS
Application No. 08/661,539
Filed: June 11, 1996
For: INTEGRATED CIRCUIT CHIP PACKAGE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition filed via facsimile transmission on April 23, 2002, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper reply to the Office letter mailed on August 8, 2001.[1] A Notice of Abandonment was mailed on March 8, 2002.

Petitioner states that a Request for Continued Examination (RCE) was submitted on August 21, 2001. The petition includes a copy of a RCE bearing a certificate of mailing dated August 21, 2001, and a copy of a return postcard which acknowledges receipt of a RCE by the Patent and Trademark Office on August 23, 2001.

The RCE filed on August 23, 2001, has been located and placed in the proper file.[2] Accordingly, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

The application file is being forwarded to the technical support staff for Technology Center 2800 for processing of the Request for Continued Examination filed on August 23, 2001.

Hien Phan, Special Program Examiner
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components
(703) 308-7502

[1] An inspection of the application file indicates that the Office letter of August 8, 2001, was an Advisory Action, and the application should therefore have been held abandoned for failure to file a proper reply to the final rejection of April 25, 2001.

[2] The RCE used an incorrect series code (09) and was located in the file of the corresponding application.

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)
5824515	1998-10-20	08661767	1996-06-11	072819.0186

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SMALL ENTITY

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	Fee	Code
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SURCHARGE

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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

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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 fish/	Date (YYYY-MM-DD)	2006-11-06
Name	Charles S. Fish	Registration Number	35870

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. 5824515
Issue Date: October 20,1998
Application No. 08661767
Filed: June 11,1996
Attorney Docket No. SH-PCT-2-CON

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

This is a decision on the electronic petition, filed November 6,2006 ,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 6,2006 . 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)
5758993	1998-06-02	08661814	1996-06-11	67755

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

	Fee	Code
○	3 ½ year	(1551)
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Small Entity

	Fee	Code
○	3 ½ year	(2551)
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◉	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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-06-21
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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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.

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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. 5758993
Issue Date: June 2,1998
Application No. 08661814
Filed: June 11,1996
Attorney Docket No. 67755

:
: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.

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)
5748875	1998-05-05	08661991	1996-06-12	

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Fee	Code	Fee	Code
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SURCHARGE

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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

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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	/Yiftach Tzori/	Date (YYYY-MM-DD)	2007-05-03
Name	Yiftach Tzori		

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. 5748875
Issue Date: May 5,1998
Application No. 08661991
Filed: June 12,1996
Attorney Docket No. 2080

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

This is a decision on the electronic petition, filed May 3,2007 ,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 3,2007 . 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
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Paper No. 17

BRADLEY J. BEREZNAK
BURGESS & BEREZNAK, LLP
800 WEST EL CAMINO REAL
SUITE 180
MOUNTAIN VIEW, CA 94040

COPY MAILED

DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Michael R. HATCH et al :
Application No. 08/662,528 : DECISION ON PETITION
Filed: June 13, 1996 :
Attorney Docket No. 073600.P002RD3 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2003, which, for the reasons stated below, is being treated as a petition under 37 CFR 1.181 requesting that the reply to the decision on petition mailed February 6, 1997 be accepted as having been timely filed.

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

On February 6, 1997, a decision on a petition under 37 CFR 1.60 was mailed, granting the instant application a filing date of June 13, 1996 and setting a one month time period within which to file (1) a copy of the written assent of the assignee which was filed to complete the prior application; (2) a certified copy of an abstract of title or an order for a title report accompanied by the fee set forth in 37 CFR 1.19(b)(4); (3) an offer to surrender the original patent as required by 37 CFR 1.171; and (4) the $130 surcharge in order to avoid abandonment of the application.[1]

Petitioner states that a reply to the February 6, 1997 Office action was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on February 18, 1997 of the following items: Copy of written assent of assignee (1 pg); Order for a title report with fee set forth in 37 CFR

[1] A review of Office finance records indicates that a $130 surcharge fee was received on February 18, 1997 and placed under the application number for this case; while the $25 fee submitted on the same date for the fee set forth in 37 CFR 1.19(b)(4) was placed under the patent number, of which the instant application is a reissue.

1.19(b)(4) (1 pg); Copy of offer to surrender the original patent as required by 37 CFR 1.171 (1 pg); and checks for $25 and $130.

The documents acknowledged as having been received in the USPTO on February 18, 1997 have not to date been associated with the instant file. However, MPEP 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 a proper and timely reply to the Office action of February 6, 1997 was received in the USPTO on February 18, 1997 but not associated with the instant file.

In view of the above, the reply to the February 6, 1997 Office action is accepted as having been timely received in the USPTO on February 18, 1997. Accordingly, this application is not in fact abandoned.

A petition under 37 CFR 1.181 does not require a fee therefor. Accordingly, the $1,300 fee submitted for the petition under 37 CFR 1.137(b) will be refunded to petitioner's Deposit Account No. 50-2060 as authorized.

Any inquiries concerning this decision on petition may be directed to the undersigned at (703) 305-8680.

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

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

BEH Conferree: Brian E. Hearn

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patent
United States Patent and Trademark Offic
Washington, D.C. 2023
www.uspto.go

OCT 23 2002

MARSHALL O'TOOLE GERSTEIN MURRAY & BORUN
6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO IL 60606-6402

In re Application of :
Patrick W. Gray :
Application No. 08/663,618 : Three Week Letter
Filed: June 14, 1996 :
For: Chitinase Materials And Methods :

A petition for access was filed by Andrew F. Nilles for access to the above-identified application on September 26, 2002.

The petition was not filed with proof of service upon applicant. Accordingly, a copy of the petition papers is enclosed.

A member of the public may be entitled to access if "special circumstances" are shown which warrant a grant of access under 35 U.S.C. § 122. See Manual of Patent Examining Procedure (MPEP), Section 103. The reliance upon the filing date under 35 U.S.C. § 120 of an application by a United States patent constitutes a special circumstance under 35 U.S.C. § 122 warranting that access to the common subject matter of the application may be granted. In re Dreyfus, 137 USPQ 475 (Comm'r Pat. 1961).

Petitioner urges and a review of U.S. Patent No. 6,372,212 reveals that the patent relies upon the filing date of the above-identified pending application under 35 U.S.C. § 120.

Applicant is hereby given THREE WEEKS from the date of this letter to file a copy of the common subject matter of the application. If applicant fails to respond within the three week period, petitioner may be allowed access to the entire application. See MPEP Section 103.

Any 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 Patent Legal Administration/Michael L. Lewis

By hand: Crystal Plaza 4, CP4-3C23
2201 South Clark Place
Arlington, VA

Telephone inquiries should be directed to Michael L. Lewis at (703) 306-5585.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Petition for access

cc: Andrew F. Nilles
TraskBritt
P.O. Box 2550
Salt Lake City, Utah 84110-2550

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 5792210
Issue Date: August 11,1998
Application No. 08664998
Filed: June 10,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed June 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 June 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.

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)
5,792,210	1998-08-11	08664998	1996-06-10	151.002

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	/David D. Stein/	Date (YYYY-MM-DD)	2008-06-11
Name	David D. Stein	Registration Number	40828

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.

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Hudak, Shunk & Farine Co. LPA
2020 Front Street, Suite 307
Cuyahoga Falls, OH 44221

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MAY 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Ronald A. Kramer :
Application No. 08/665,491 : ON PETITION
Filed: June 18, 1996 :
Attorney Docket No. BAND-A :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 29, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed October 6, 2003, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight January 6, 2004.

In response, petitioner submitted with the instant petition an authorization to charge $685 for the petition to revive fee, and $685 for the issue fee. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

The Notification of Change of Mailing Address filed with the instant petition has been made of record.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Office of Publications within **ONE MONTH** from the mail date of this decision

The application file is being referred to the Office of Publications for further processing into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Issue Fee Transmittal Form (PTOL-85b)

12 DEC 2003

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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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Guy D. Yale
ALIX, YALE & RISTAS LLP
750 Main Street
Hartford, CT 06103-9211

In re Application of :
FEHSENMAYR, Theo *et al* :
Application No.: 08/666,295 :
PCT No.: PCT/EP95/00437 :
Int. Filing Date: 06 November 1995 :
Priority Date: 07 November 1994 :
Attorney's Docket No.: GMH/303/PC/US :
For: GRATE PLATE FOR THE PUSH-TYPE :
GRATE OF A COOLER :

DECISION ACCEPTING PAPERS AS APPLICATION

This is a decision in response to the papers filed in the United States Patent and Trademark Office (USPTO) by applicants on 16 August 2002, which include:

(1) A copy of a letter from the PCT legal office dated 31 July 2002.

(2) A copy of a Status Inquiry dated 24 July 2002.

(3) A copy of the date-stamped postcard receipt for the Information Disclosure Statement stamped on 12 September 1996.

(4) A copy of a Notice of Recordation of Assignment from the USPTO dated 23 November 1996.

(5) A copy of a Recordation Form Cover Sheet for Assignments dated 10 September 1996.

(6) A copy of the date-stamped postcard receipt for the Assignment stamped on 12 September 1996.

(7) A copy of an Assignment.

(8) A copy of the date-stamped postcard receipt for the national stage application, an unsigned declaration, one drawing sheet, a preliminary amendment, an English translation of the international application, an English translation of the Request, and an $880.00 filing fee stamped on 02 July 1996.

(9) A copy of the Express Mail receipt label No. EM094036633US with a "Date In" of "7 2 96."

(10) A copy of a request for immediate examination under 35 U.S.C. 371(f).

(11) A copy of an unexecuted declaration.

(12) A copy of an English translation of the Request, description, claims and drawings for international application PCT/EP95/04370.

(14) A copy of a preliminary amendment.

(15) A copy of the PCT application.

(16) A copy of an executed declaration submitted 16 August 2002.

ACCEPTANCE OF PAPERS AS APPLICATION CONTENTS

The papers filed 16 August 2002 are accepted as the contents of application number 08/666,295 and will be used to reconstruct the USPTO application file, the original of which cannot presently be located, as follows:

(1) The copy of the request for immediate examination under 35 U.S.C. 371(f), the preliminary amendment and international application filed on 16 August 2002 will be entered as the application papers filed 02 July 1996 in accordance with an itemized post card receipt date stamped by the USPTO for the instant application, which indicates receipt of a new application on 02 July 1996. The $880.00 basic national fee is located in the financial records of the instant application.

(2) The signed declaration filed on 16 August 2002 will be treated as filed.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 06 November 1995, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 16 August 2002.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-6457

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Commissioner for Patents
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P.O. Box 1450
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YOON JA KIM
RESEARCH RESOURCES INC
913 FRANCES PARKWAY
PARK RIDGE IL 60068

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AUG 07 2008

Reissue Patent No. RE36355 :
Reissue Date: October 26, 1999 :
Reissue Application No. 08/666,736 : ON PETITION
Filed: May 14, 1996 :
Original Patent No. 5,510,129 :
Issue Date: April 23, 1996 :
For: POTASSIUM BROMATE REPLACER COMPOSITION :

This is a decision in response to the petition under 37 CFR 1.378(b), filed on June 12, 2008, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) 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). Any such petition for reconsideration must be accompanied by the petition fee of $400.00 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 because the Director will not undertaken any further reconsideration or review of the matter after a decision on the petition for reconsideration.

The original patent issued on April 23, 1996. The third maintenance fee could have been paid during the period from April 23, 2007 through October 23, 2007 or with a surcharge during the period from October 24, 2007 through April 23, 2008. Accordingly, this patent expired on April 24, 2008, for failure to timely remit the third maintenance fee.

Patentee asserts that the delaying in paying the third maintenance fee was unavoidable due to non-receipt of the Maintenance Fee Reminder mailed October 29, 2007, and the late delivery of the Notice of Patent Expiration.

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

> (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.

This petition lacks requirement (3).

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The Office notes:

> Under the statutes and regulations, the Office has no duty to notify patentees when their maintenance fees are due. It is the responsibility of the patentee to ensure that the maintenance fees are paid to prevent expiration of the patent. The Office, will, however, provide some notices as reminders that maintenance fees are due, but the notices, error in the notices, or the lack of notices will in no way relieve a patentee from the responsibility to make timely payment of each maintenance fee to prevent the patent from expiring by operation of law. The notices provided by the Office will be merely courtesy in nature and intended to aid patentees. These notices, errors in these notices, or the lack of notices will in no way shift the burden of monitoring the time for paying maintenance fees on patents from the patentee to the Office.

MPEP 2580.

Accordingly, the Office is not required to mail a patentee notification of when a maintenance fee is due. The fact that a patentee may not have received these notices does not relieve him of the responsibility to pay the maintenance fees timely. Therefore, a patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. See Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988), aff'd sub nom., Rydeen v. Quigg, 748 F.2d Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd, 937 F.2d 623 (Fed. Cir. 1991).

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. See Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3), requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

In the present petition, petitioner has not provided sufficient showing that the delay in timely paying the maintenance fee was unavoidable. Therefore, the petition under 37 CFR 1.378(b) is **dismissed**.

Patentee should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. The $400.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

In the alternative, patentee may wish to file a petition under 37 CFR 1.378(c), requesting that the unintentionally delayed payment of a maintenance fee be accepted. Patentee may request that $700.00 surcharge be applied toward the current $1,640.00 surcharge for the unintentional late payment of the maintenance fee, leaving a balance due of $940.00. The appropriate form is enclosed.

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

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 (1)

PTO/SB/66 (10-05)
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 a valid OMB control number.

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

Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. _____ Application Number _____

Issue Date _____ Filing Date _____

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

The above - identified patent:

☐ is a reissue of original Patent No. _____, original issue date _____;
original application number _____,
original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) 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 Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

_____ _____
Date Signature

_____
Typed or printed name of person signing Certificate

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. **SEND TO: Mail Stop Petition, 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.

1. SMALL ENTITY

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

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			**Small Entity**		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $_____	3 1/2 yr fee	(1551)	☐ $_____	3 1/2 yr fee	(2551)
☐ $_____	7 1/2 yr fee	(1552)	☐ $_____	7 1/2 yr fee	(2552)
☐ $_____	11 1/2 yr fee	(1553)	☐ $_____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $_____

4. SURCHARGE

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

SURCHARGE BEING SUBMITTED $_____

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $_____.

☐ Please charge Deposit Account No._____ the sum of $_____. A duplicate copy of this authorization is attached.

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No._____. A duplicate copy of this authorization is attached.

7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No._____.

OR

☐ Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

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

_____ _____
Signature(s) of Petitioner(s) Date

_____ _____
Typed or printed name(s) Registration Number, if applicable

_____
Telephone Number

_____
Address

_____
Address

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."

ENCLOSURES:

☐ Maintenance Fee payment

☐ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOON JA KIM
RESEARCH RESOURCES INC
913 FRANCES PARKWAY
PARK RIDGE IL 60068

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FEB 18 2009

OFFICE OF PETITIONS

Reissue Patent No. RE36355 :
Reissue Date: October 26, 1999 :
Reissue Application No. 08/666,736 : GRANTING DECISION ON PETITION
Filed: May 14, 1996 :
Original Patent No. 5,510,129 :
Issue Date: April 23, 1996 :
For: POTASSIUM BROMATE REPLACER COMPOSITION :

This is a decision in response to the petition under 37 CFR 1.378(c), filed on December 30, 2008, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The original patent issued on April 23, 1996. The third maintenance fee could have been paid during the period from April 23, 2007 through October 23, 2007 or with a surcharge during the period from October 24, 2007 through April 23, 2008. Accordingly, this patent expired on April 24, 2008, for failure to timely remit the third maintenance fee.

This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Furthermore, the Office acknowledges receipt of the third maintenance fee and the surcharge after expiration for the unintentional late payment. 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.

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

SCANI Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/16/07

Paper No.: _____

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/667147 Patent No.: 7074397

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

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

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: All requested corrections except corrections to claims (Last para p-3 top-5) may be entered. ~~Applicants~~ Corrections to claims is denied because applicants do not indicate the errors found ~~in~~ and their corrections

Mary Lynn
SPE

1647
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/6/09

TO SPE OF : ART UNIT 1647 Rao Manjunath N Spe

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/667197 Patent No.: 7074397

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: All requested corrections may be entered except correction to claims. Corrections to claims is denied because applicants do not show the errors in claims and the corrections made to rectify the errors.

Manjunath
SPE

1/12/09.
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/15/09

TO SPE OF : ART UNIT 1647 Landsman, Robert

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/667197 Patent No.: 7074397

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: _____

SPE

1647
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)
5747258	1998-05-05	08667294	1996-06-20	1080/0012US1

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	/Nada Jain/	Date (YYYY-MM-DD)	2010-05-19
Name	Nada Jain	Registration Number	41431

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. 5747258
Issue Date: May 5,1998
Application No. 08667294
Filed: June 20,1996
Attorney Docket No. 001480/0001

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

This is a decision on the electronic petition, filed May 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 May 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

Paper No. 34

GLORIA L. NORBERG
AKIN GUMP HAUER & FELD
1900 FROST BANK PLAZA
816 CONGRESS AVENUE
AUSTIN, TX 78701

COPY MAILED

JAN 0 2 2004

OFFICE OF PETITIONS

In re Application of
Walsdoft et al.
Application No. 08/667,503
Filed: June 21, 1996
Attorney Docket No. 062682.0010

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 17, 2003, 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 September 11, 2000. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on December 12, 2000. A Notice of Abandonment was mailed on May 21, 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.[1]

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. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely 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.

---

[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 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).

Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $950.00 extension of time fee submitted with the petition on December 17, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Jila Bakker
FULBRIGHT & JAWORSKI, L.L.P.
1301 McKinney, Suite 5100
Houston, TX 77010-3095

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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)
5,872,853	1999-02-16	08/668,323	1996-06-26	360344-000001

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	/Peter R. Leal/	Date (YYYY-MM-DD)	2008-08-28
Name	Peter R. Leal	Registration Number	24226

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. 5872853
Issue Date: February 16,1999
Application No. 08668323
Filed: June 26,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed August 28,2008 ,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 28,2008 . 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)
5716288	1998-02-10	08668940	1996-06-24	

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

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	/Thomas Salvatore Sacco/	Date (YYYY-MM-DD)	2010-07-28
Name	Thomas Salvatore Sacco		

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. 5716288
Issue Date: February 10,1998
Application No. 08668940
Filed: June 24,1996
Attorney Docket No. 8665-1

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

This is a decision on the electronic petition, filed July 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 July 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 PATENT AND TRADEMARK OFFICE

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

MAIL Paper No. 24

JAN 6 1 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARVIN NACHMAN
315 SAYBROOK RD
VILLANOVA, PA 19085

In re Application of :
Nachman :
Application No. 08/669,056 : ON PETITION
Filed: June 24, 1996 :
For: Interface Circuit for Utilizing a Facsimile :
Coupled to a PC As A Scanner or Printer :

This is a decision on the petition filed September 29, 2000, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 19, 2000, 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 20, 2000. A Notice of Abandonment was mailed on October 2, 2000.

Petitioner contends that an amendment was timely filed in response to the Office Action. In support, petitioner has submitted a copy of the amendment bearing a certificate of mailing in compliance with 37 CFR 1.8(a).

37 CFR 1.8(b) provides that when correspondence satisfies 37 CFR 1.8(a), but was not received by the Patent and Trademark Office, the correspondence will be considered timely if:

(1) petitioner 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 corresondence.
(2) petitioner supplies an additional copy of the previously mailed or transmitted correspondence and certificate,
(3) the petitioner includes a statement which attests on a personal knowledge basis, or to the satisfaction of the Commissioner, to the previously 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, and
(4) the Office may require additional evidence to determine if the correspondence was timely filed.

The petition complies with the requirements set forth in 37 CFR 1.8(b).

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the technical support staff for entry of the amendment.

The application file is being forwarded to the technical support staff for entry of the amendment. After the amendment is entered, the file will be forwarded to the examiner for further examination.

Joseph J. Rolla, Jr., Director
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : September 13, 2007

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/669056 Patent No.: 6894811 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.

DO NOT SENT TO ATTORNEY

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.

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

Comments: _____

Examiner: C. Lee

SPE

2625
Art Unit

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)
6224957	2001-05-01	08669111	1996-06-24	

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

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	/John A. Crook/	Date (YYYY-MM-DD)	2009-11-02
Name	John A. Crook		
Enter Reel and Frame Number		Remove	
Reel Number	023107	Frame Number	0398
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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The information provided by you in this form will be subject to the following routine uses:

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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.

UNITED STATES 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. 6224957
Issue Date: May 1,2001
Application No. 08669111
Filed: June 24,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 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 November 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.

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)
5725266	1998-03-10	08669234	1996-06-24	124185.10501

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	/Joseph T. Helmsen/	Date (YYYY-MM-DD)	2010-04-07
Name	Joseph T. Helmsen	Registration Number	54163

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. 5725266
Issue Date: March 10,1998
Application No. 08669234
Filed: June 24,1996
Attorney Docket No. ABU-106-A

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON MA 01748

COPY MAILED

NOV 16 2007

OFFICE OF PETITIONS

In re Application of :
Robert A. Alfieri :
Application No. 08/671,041 : DECISION ON PETITION
Filed: June 27, 1996 :
Attorney Docket No. DG-590C :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Nonfinal Rejection mailed June 7, 2005, which set a statutory period for reply of 3(three) months. The application became abandoned on September 8, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,500, and (3) an adequate statement of unintentional delay.

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

Since the above application was filed after June 8, 1995, **no** terminal disclaimer is required. Therefore, petitioner may request a refund of the terminal disclaimer fee ($130) submitted with the petition on May 21, 2007, by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

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

This application is being referred to Technology Center AU 2195 for appropriate action by the Examiner in the normal course of business on the reply received May 21, 2007.

Karen Creasy

Karen Creasy
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)
5,697,534	1997-12-16	08673156	1996-06-25	TTB-317

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

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	/Salvatore Riera/	Date (YYYY-MM-DD)	2010-02-22
Name	Salvatore Riera, president of assignee		
Enter Reel and Frame Number		Remove	
Reel Number	008068	Frame Number	0207
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. 5697534
Issue Date: December 16,1997
Application No. 08673156
Filed: June 25,1996
Attorney Docket No. TTB-317

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

This is a decision on the electronic petition, filed February 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 February 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAROLD W MILTON JR
HOWARD AND HOWARD
1400 NORTH WOODWARD AVENUE
SUITE 101
BLOOMFIELD HILLS MI 48304-2856

COPY MAILED

JUL 24 2008

In re Patent No. 5,661,645 :
Issue Date: August 26,1997 :
Application No. 08/673,200 : NOTICE
Filed: June 27, 1996 :
Attorney Docket No. 65.016-014 :

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed April 15, 2008 in the above-identified patent. 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.

The fee deficiency submission under 37 CFR 1.28(c) 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.

There is no indication in the patented file that David M. Quinlan, Registration No. 24,641, is an attorney/agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Quinlan appearing on the present submission under 37 CFR 1.28(c) shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Quinlan desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Quinlan. However, until otherwise instructed, all future correspondence regarding this application file will continue to be directed solely to the above-noted correspondence address of record.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petition's Examiner
Office of Petitions

Cc: David M. Quinlan, P.C.
32 Nassau Street
Suite 300
Princeton, NJ 08542

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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#36

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

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OCT 0 7 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
John W. Chapman et al :
Application No. 08/673,876 :
Filed: July 2, 1996 :
Attorney Docket No. T7044(C) :

This is a decision on the petition, filed October 5, 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 September 3, 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) 305-8859.

After receipt of the file in the Office of petitions, the file will be forwarded to Technology Center AU 1653 to consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 29

T. Murray Smith
Baker Botts LLP
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980

In re Application of:	:	Decision on Petition for
Dale S. Howard et al.	:	Supervisory Review
Application No. 08/673,986	:	under 37 CFR 1.181
Filed: July 1, 1996	:	
Attorney Docket No.: 35-95-010(01)	:	
For: ELECTRONIC PUBLICATION DISTRIBUTION METHOD AND SYSTEM	:	

This is in response to applicant's letter Regarding Status of Application, filed in the United States Patent and Trademark Office on August 23, 2002. The letter will be treated as a petition for Supervisory Review under 37 CFR 1.181 for the purpose of this decision. No fee is required. The delay in this decision is sincerely regretted.

The petition is **GRANTED.**

A review of the file indicates that applicant was sent a Final rejection mailed August 27, 2001. Applicant was given a Shortened Statutory Period for response of 3 months from that date. A response was filed on September 21, 2001 addressing the rejection as well as indicating that the office action was incomplete and requesting the office action be withdrawn and replaced with a complete office action. The applicant filed another letter inquiring about the status of the application on February 14, 2002. The Office replied to both this status letter and the earlier response in an Advisory Action mailed March 11, 2002 indicating that the final rejection was proper. On March 12, 2002, the Office mailed out the Notice of Abandonment indicating that no proper response was received to the August 27, 2001 Office action.

A review of the Office action of August 27, 2001 yields a conclusion that the rejection of claims 2-6, 10-11, 17 and 24 lacked any basis or support and the Office action was therefore clearly incomplete.

Applicant filed the instant petition on August 23, 2002, contending that the Advisory Action issued by the Examiner on March 11, 2002 failed to address applicant's arguments filed on September 21, 2001 (Paper No. 23).

MPEP 710.06 clearly indicates that when an Office action is received which is incomplete, if the applicant calls this fact to the attention of the Office within 1 month, the Office will "restart the previously set period for reply to run from the date the error is corrected...". The holding by the examiner in the Advisory Action of March 11, 2002 that the rejection was proper and complete was clearly incorrect. The applicant should have received a new and complete Office action.

Therefore, all communications prior to the instant petition and after the response of September 21, 2001 are hereby VACATED and the abandonment is hereby withdrawn.

The application is being forwarded to the Supervisory Legal Instruments Examiner to withdraw the abandonment and restore the application to pending status before forwarding to the examiner for creation of a new, complete Office action addressing the claims and arguments of the responses filed June 11, 2001 and September 21, 2001.

Any inquiries regarding this decision should be directed to Supervisory Patent Examiner Tariq Hafiz at (703) 305-9643.

John J. Love, Director
Technology Center 3600
(703) 308-1020
Fax: (703) 305-4597

th/snm: 10/9/02
SM

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 14,2007**

TO SPE OF : ART UNIT **1634**

SUBJECT : Request for Certificate of Correction for Appl. No.: **08/674,311** Patent No.: **6870037 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**.

DO NOT SENT TO ATTORNEY

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

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

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: _____

RAM R. SHUKLA, PH.D.
~~SUPERVISORY PATENT EXAMINER~~
SPE

1634
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 23

TUCKER, ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

MAILED

SEP 25 2009

OFFICE OF PETITIONS

In re Patent of	:	
Peter Norden	:	
Patent No.: 5,841,947	:	
Issue Date: 11/24/1998	:	
Application No 08/674337	:	DECISION
Filing or 371(c) Date: 07/12/1996	:	ON PETITION
Title of Invention:	:	
COMPUTER IMPLEMENTED MACHINE	:	
LEARNING METHOD AND SYSTEM	:	

This is a decision on the petition under 37 CFR § 1.378(c), to reinstate the above-identified patent, filed July 20, 2009.

The petition is **DISMISSED**.

Background

The patent issued November 24, 1998. Patentee could have paid the seven and one half (7½) year maintenance fee between November 24, 2005, and May 24, 2006, without a surcharge, or within the six (6) month grace period between May 25, 2006 and November 24, 2006. Patentee failed to do so; accordingly, the patent became expired on November 25, 2006.

Petition under 37 CFR § 1.378(b)

Petitioner filed a petition under 37 CFR § 1.378(b) to reinstate the present patent based upon an unavoidably delayed payment of the maintenance fee on December 9, 2008. The petition was dismissed in a Decision mailed May 20, 2009. The Decision dismissing the petition informed Petitioner that the following two options were available to Petitioner:

I. Petitioner may file a request for reconsideration (of the petition under 37 CFR 1.378(b))

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision. The petition for reconsideration should

be entitled "Petition for Reconsideration under 37 CFR 1.378(e)." Any petition for reconsideration of this decision must be accompanied by a non-refundable petition fee of $400 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to 'show' that the delay was unavoidable. Therefore, 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.

The instant petition

Petitioner files the present petition under 37 CFR 1.379(c), to reinstate the present patent based upon an unintentionally delayed payment of the maintenance fee.

Applicable Law, Rules and MPEP

The applicable Law, 35 U.S.C. § 41, Patent fees; patent and trademark search systems, states in relevant part, that "[u]nless 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 applicable rule, 37 CFR 1.378(c), states:

> (c) Any petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section 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.

Finally, 37 CFR § 1.362(e), states that 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.

When payment of the maintenance fee is not received before the maintenance fee is due, or within the grace period of six (6) months thereafter, the law requires this Office to hold a patent expired.

The rule that allows for reinstatement of an expired patent based upon an unintentionally delayed payment of the maintenance fee under 37 CFR 1.378(c), however, the Rule requires that any petition filed thereunder must be filed within 24 months after the six-month grace period.

Here, the last day of the grace period was November 24, 2006. Petitioner had until November 24, 2008, to file a petition under 37 CFR 1.378(c). The present petition was filed July 20, 2009. As such, the petition is untimely.

Conclusion

The petition is dismissed. Petitioner's options for the present patent remain as set forth in the Decision dismissing the petition under 37 CFR 1.379(b), mailed May 20, 2009.

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

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

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

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

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0018
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

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

Docket Number (Optional): 72467/00001

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 5,841,947 Application Number 08/674,337

Issue Date November 24, 1998 Filing Date July 12, 1996

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

The above – identified patent

☐ is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____ 07/10/2009 DALLEN 00000024 500982 5841947

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application 01 FC:1599 140.00 DA

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

July 2, 2009
Date

Jaclyn M. Averweg
Signature

Jaclyn M. Averweg
Typed or Printed Name of Person Signing Certificate

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, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**

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

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CENTRAL FAX CENTER
JUL 02 2009

PTO/SB/66 (03-09)
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1. SMALL ENTITY

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

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☐ $ _____	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☑ $ 1,240.00	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1,640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ 940.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____

☑ Please charge Deposit Account No. 50-0902 the sum of $ 940.00

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☑ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 500902(72467/0000

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JUL 02 2009

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Approved for use through 03/31/2012. OMB 0651-0016
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7. OVERPAYMENT

As to any overpayment made please

OR

☑ Credit to Deposit Account No. 50-0902(72467/00001) .

☐ Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

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

Signature(s) of Petitioner(s)	July 2, 2009 Date
Susan L. Mizer Typed or printed name(s)	38,245 Registration Number, if applicable
(216)696-3466 Telephone Number	

TUCKER ELLIS & WEST LLP, 935 EUCLID AVENUE, HUNTINGTON BLDG. CLEVELAND, OH 44115
Address

Address

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."

ENCLOSURES

☐ Maintenance Fee Payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

[Page 3 of 3]

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FLOYD B. CHAPMAN
BAKER & BOTTS, LLP
THE WARNER SUITE 1300
1299 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20004-2400

COPY MAILED

MAY 1 4 2001

OFFICE OF PETITIONS
A/C PATENTS

In re application of	:	
Scott A. Moskowitz	:	
Application No. 08/674,726	:	Petition to Expunge
Filed: July 2, 1996	:	Dismissed
Atty Docket No. 2377/11	:	

The above noted application has been forwarded to the undersigned for consideration of the petition filed on January 24, 2001.

The petition is dismissed.

Petitioner requests that certain comments made by the examiner in paper number 21 be expunged from the record.

After careful consideration, the comments made by the examiner will not be expunged. The Office expunges statements from the Official record only in exceptional circumstances, generally where there is no alternative other than expungment. When a petition to expunge is granted, applicant is required to retain the expunged material and to make it available in any later litigation involving the patent. Accordingly, where trade secret information is not involved, a more suitable alternative to expungment is correction of the record.

In this application, some of the statements made by the examiner were wrong and are regretted.

The USPTO spends considerable sums making electronic databases and other information available to examiners for search purposes in examination of applications. Nevertheless, the Office is concerned that for some inventions, the Office may not have access to or be considering all prior public knowledge and publications which would have bearing upon the patentability of these inventions. Any area where information relating to the state of the art is not generally published creates problems for the USPTO in evaluating patents in that area of technology. Applicant has submitted information disclosure statements

with both non-patent literature and prior U.S. patents related to the claimed invention. Some of the patents cited were granted to the inventor of the above-identified application. Clearly, this is an area of technology with prior art available for the examiner to consider, although no blueprints for the inventions yet to be discovered and patented.

Furthermore, contrary to the statement of the examiner, the Office has issued "business method" patents for many years and considered many business methods statutory subject matter before the State Street decision. The "White Paper" cited by applicant describes the Official USPTO policy on business method patents.

After mailing this decision, the application will be returned to Group Art Unit 2664 for further processing, and for consideration of the reply filed March 12, 2001.

Telephone inquiries should be directed to the undersigned at (703) 306-3159.

Karin L. Tyson
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

MAILED

OCT 29 2003

Director's Office
Group 3700

Baker Botts LLP
2001 Ross Avenue
Dallas, Texas 75201-2980

Date October 20, 2003

In re Application of
Weber et al.

:Petition Under 1.181
:And 1.193 Requesting
:WITHDRAWAL Of NEW
:GROUNDS OF REJECTION IN
:EXAMINERS ANSWER HOLDING

08/675,280
Filed: July 1, 1996
For: Construction of Phase Change Material Embedded Electronic Circuit Boards

BEST AVAILABLE COPY

Receipt is acknowledged of the following papers:

Appellants timely filed Petition under #7 CFR 1.181 and 1.193 Requesting the withdrawal of alleged new grounds of rejection in the Examiners Answer mailed October 02, 2002
The petition is Dismissed.

DISCUSSION

Appellants Petition Under 37 CFR 1.181 and 1.193 has been considered.

Appellants allege that the Primary Examiner raised a New Grounds of Rejection in the Examiners Answer issued October 02,2002 paper number 49. Appellants points out that in the subject Examiners Answer on page 7 lines 7-8 the examiner states in part in formulating a 35 USC 103 rejection for claims 25 and 35:

"..also there is no written disclosure that teaches one how to physically coupled the matrix to a container…."

The Appellants feel that this language is technically setting forth a new grounds of rejection since these comments relating to

the written disclosure did not appear in the examiners final rejection.

After a close reading of final rejection and examiners answer, it appears that the examiner did indeed make the alleged assertions regarding the written disclosure, however no formal rejection under 35 USC 112 first paragraph was set forth in the record regarding the "physically coupling" language in the examiners final rejection of claims 25 and 35.

The record appears to show that the comments set forth by the examiner where presented to rebut Appellants position that the cited prior art to Telkes does not disclose a matrix coupled physically a container. The examiner in an attempt to establish that Telkes does in fact show a matrix physically coupled to a container wall has pointed out that the originally filed disclosure as it pertains to the elected invention of Fig 2, does not disclose any means for attaching the matrix to the wall of the container plate.(see specification Page 7 lines 15 to 25). Given this observation the examiner has taken the position that if appellants feel his claimed matrix is "physically coupled" to a container as recited in claims 25 and 35, than the matrix disclosed in the cited reference to Telkes should also be considered as "physically couple to a container" given that it also does not disclose a means of attaching the matrix to a wall.

After careful review, that the examiner did not raise a new grounds of rejection in the examiners answer mailed October 02, 2002 and therefore the Petition is hereby Dismissed.

Petitioners may file a renewed petition, without fee, addressing the point raised above. Any request for reconsideration of this decision must be submitted within TWO(2) MONYHS from the mail date of this decision , 37 CFR 1.181(f). No 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 1.181"

Richard Bertsch
Director
Group 3740 and 3750
Phone: (703) 308-0975

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/675,304	07/01/1996	SAF ASGHAR	133757.3	9422

21269 7590 12/08/2009

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

EXAMINER	
MEKY, MOUSTAFA M	
ART UNIT	**PAPER NUMBER**
2756	

MAIL DATE	DELIVERY MODE
12/08/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5,771,394 ASGHAR ET AL.	:	
Issue Date: June 23, 1998	:	**DECISION GRANTING**
Appl No.: 08/675,304	:	**PETITION**
Filed: July 01, 1996	:	*37 CFR 1.324*
For: Correction of Inventorship Under 37 CFR 1.324	:	
	:	
	:	
	:	

This is a decision on the petition filed October 06, 2009 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.

/ARIO ETIENNE/

Ario Etienne
Supervisory Patent Examiner
Art Unit 2457
Technology Center 2400

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

UNITED STATES 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. 31

Corporate Patent Counsel
U.S. Philips Corporation
550 White Plains Road
Tarrytown, NY 10591

NOV 30 2004

In re Application of:
VAN DER HOOFDEN et al.
Serial No.: 08/675,665
Filed: July 3, 1996
For: CIRCUIT ARRANGEMENT

DECISION ON PETITION

This is a decision on the petition filed on October 29, 2002, and resubmitted April 1, 2004, and July 29, 2004[1], the latter via facsimile transmission, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED to the extent indicated below.

This application was held abandoned for failing to timely take appropriate action after the decision rendered by the Board of Patent Appeals and Interferences on May 24, 2002. A Notice of Abandonment was mailed on September 3, 2002.

Petitioner states that a request for a Continued Prosecution Application (CPA) was filed on February 22, 2000. To support this assertion, petitioner has submitted a copy of the CPA bearing a Certificate of Express Mail dated February 22, 2000.

A review of the application file indicates the original request for the CPA is not of record and cannot be located. However, a review of the fee history for the application indicates that the fee for filing a CPA was received by the USPTO on February 22, 2000. In view of the above-stated evidence, it is hereby concluded that a CPA was received in the USPTO on February 22, 2000 but lost after receipt thereof. The copy of the request for CPA filed with the petition is hereby accepted in lieu of the originally filed request.

[1] A copy of a request for a Continued Prosecution Application along with an amendment was submitted on September 9, 2002, along with a copy of a postcard receipt with a receipt date of February 22, 2000 stamped thereon by the USPTO.

The application file is being forwarded to the technical support staff for processing the request for a CPA and for entry of the amendments filed on July 26, 1999 and July 31, 2002.

Inquiries regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Sharon A. Gibson, Group 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
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 2-6-07

Patent No.: 7,067,326 B2
Patent Issued : June 27, 2006
Inventor(s): Still, et. al.
Title: SYNTHETIC RECEPTORS, LIBRARIES AND USES THEREOF
Docket No.:

Re: Request for Certificate of Correction

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

The alleged error in col. 75, line 37 & 38 is printed in accordance with the record.

In view of the foregoing, your request in this matter again is hereby denied. However, further consideration will be given upon receipt of a request for reconsideration directed to Decisions & Certificates of Correction Branch.

Eva James
For Cecelia B. Newman
Certificate of Correction Branch
(703) 308-9390 ext. 124 or ext. 102

Bradley A. Forrest
Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis MN 55402-0938

ej

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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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JAN 25 2006

Group 3700

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

Paper No. 12

In re Application of
WAGNER, WILFRIED
Appl No.: 08/676,299
Filed: September 19, 1996
For: VACUUM BRAKE BOOSTER FOR MOTOR VEHICLES
Attorney Docket Number: ATEVP7773

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on the request filed January 12, 1998 to review the holding of abandonment, mailed November 12, 1997, for allegedly not timely paying the issue fee required by the Notice of Allowance and Issue Fee Due, mailed May 7, 1997. In view of petitioner's statements, the petition is being treated as a petition under 37 CFR 1.181. No fee is required for this petition.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response (including the PTOL-85B that authorizes charging Deposit Account Number 18-0013 for the issue fee) with a certificate of mailing of August 5, 1997 and a copy of a PTO stamped post card receipt dated August 11, 1997.

In view of the above, the Notice of Abandonment mailed November 12, 1997 is in error and is hereby vacated. The holding of abandonment is withdrawn. As there are no outstanding requirements, the application is being forwarded to the Office of Publications for processing the issue fee and issuing the application in due course.

Henry A. Bennett, Acting Director
Technology Center 3700

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)
5795515	1998-08-18	08676482	1996-07-08	6964

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	/WendyNPeterson/	Date (YYYY-MM-DD)	2007-03-30
Name	Wendy N. Peterson	Registration Number	52116

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. 5795515
Issue Date: August 18,1998
Application No. 08676482
Filed: July 8,1996
Attorney Docket No. 6114

:
: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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6.11.06

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/676500 Patent No.: 6961907

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**.

Mayra

Certificates of Correction Branch

703-308-9390 ext. 115

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: MNT

JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2173

Art Unit

DETACH HERE BEFORE MAILING TWO COPIES OF THE CERTIFICATE TO THE PATENT OFFICE

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,961,907 B1 **PAGE** 1 **of** 1

DATED : November 1, 2005

INVENTOR(S) : Bailey

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 [56], **References Cited,**

Should add the following publications from Information Disclosure Statement filed on October 6, 2004:

Person, R., and Rose, K., Using Windows 3.1, Special Edition, 1993, pp. 55-56, 91-94, 211-222, 485-490, 593-594, and 647-648.

Petzold, Programming Windows 3.1, 3rd Edition, 1992, pp. 251-252 and 791-822.

Najjar, L.J. and Zimmatore, J.J., "Multiple Item On-Line Clipboard," IBM Technical Disclosure Bulletin, Vol. 35, No. 2, July 1992.

Haynes, T., Melkus, L. and Schell, D., "Combined Cut (or Copy) and Paste Functions Via Menus in a GUI," IBM Technical Disclosure Bulletin, Vol. 35, No. 6, November 1992.

"Advantis Passport for Windows", Advantis Corporation (copy not provided).

MAILING ADDRESS OF SENDER:
Gates & Cooper LLP
Attn: George H. Gates
6701 Center Drive West, Suite 1050
Los Angeles, California 90045

PATENT NO. 6,961,907 B1

Docket No. ST9-96-012

No. of add'l copies @ 50¢ per page ⇒ 0

JAN 2006

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)
5,697,092	1997-12-09	08/676,767	1996-07-08	8822.90001

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	/Christopher P. Maiorana/	Date (YYYY-MM-DD)	2010-05-03
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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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)).

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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. 5697092
Issue Date: December 9,1997
Application No. 08676767
Filed: July 8,1996
Attorney Docket No. 8822.90001 / 16405

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

This is a decision on the electronic petition, filed May 3,2010 ,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 3,2010 .
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.

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)
5,795,445	1998-08-18	08/677,802	1996-07-10	CIT600.96180-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	/James F. Harvey, III/	Date (YYYY-MM-DD)	2007-02-22
Name	James F. Harvey, III	Registration Number	39706

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. 5795445
Issue Date: August 18,1998
Application No. 08677802
Filed: July 10,1996
Attorney Docket No. CIT300-196/P

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

This is a decision on the electronic petition, filed February 22,2007 ,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 22,2007 . 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, DC 20231
www.uspto.gov

Paper No. 16

MAIL

OCT 0 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Steven Lin, Esq.
Cirrus Logic Legal Dept.
4210 S. Industrial Dr.
Austin, TX 78744

In re Application of: :
Christopher P. Zook :
Application No. 08/678,011 : ON PETITION
Filed: July 10, 1996 :
For: SERVO TRACK ADDRESS CHANNEL CODE FOR D=1 MAGNETIC RECORDING :

This is a decision on the petition filed August 14, 2002 under MPEP 711.03(c)(II), which is being treated pursuant to 37 C.F.R. § 1.181(a), to withdraw the holding of abandonment. No fee is required.

The application file is held abandoned for failure to timely submit the issue fee due April 22, 2002. A Notice of Abandonment was mailed May 23, 2002.

Petitioner alleges that the Notice of Allowance and Issue Fee Due was not received.

Based on M.P.E.P. □ 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to 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 required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) 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

(c) 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.

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.

Petitioner has complied with requirements (a-c) above. Accordingly, the petition is **GRANTED.**

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application file will be forwarded to the Technology Center's technical support staff for entry of the Revocation and Power of Attorney and address change, filed with the petition and to re-mail the Notice of Allowance and Issue Fee Due and the Notice of Allowability. The period for response will be reset to begin as of the mailing therof.

James L. Dwyer, Director
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

Cirrus Logic Inc.
Cirrus Logic Legal Department
2901 via Fortuna
Austin, TX 78746

COPY MAILED

MAY 18 2007

OFFICE OF PETITIONS

In re Application of :
ZOOK et al. :
Application No.: 08/678,011 : DECISION ON PETITION
Filed: July 10, 1996 : UNDER 37 CFR 1.137(b)
Attorney Docket No.: 0269-MS :
For: SERVO TRACK ADDRESS CHANNEL :
CODE FOR D=1 MAGNETIC :
RECORDING :

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed June 30, 2006.

The petition is **DISMISSED AS MOOT**.

On May 31, 2006, the United States Patent and Trademark Office (re)mailed a Notice of Allowance which set a statutory period for reply of (3) months. On May 30, 2006, applicant submitted the Issue fee and subsequently filed corrected drawings sheets on June 22, 2006. Since the Issue Fee and corrected drawing were submitted within the statutory period, the petition to revive is dismissed as moot.

The application is being referred to the Office of Publications

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

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298

PET/DEC

OIPE
NOV 13 2003
PATENT & TRADEMARK OFFICE

Attorney Docket: 1242/42657
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
NOV 20 2003
TC 1700

Applicant:	MARIA SIMPSON ET AL.		
Serial No.:	08/678,510	Group Art Unit:	1741
Filed:	JULY 9, 1996	Examiner:	J MAPLES

Title: FUEL CELL AND FUEL CELL COMPONENT DESIGN, CONFIGURATION, AND MANUFACTURING AND ASSEMBLY PROCESS TECHNOLOGY AND MATERIALS

APPLICATION FOR WITHDRAWAL

MAR 8 2004

Approved
Jacqueline M. Stone, Director
Technology Center 1700

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

Sir:

The undersigned, on behalf of himself, the attorneys listed in the original Power of Attorney and the undersigned's current firm of Crowell & Moring LLP, apply for leave to withdraw as the representative of the applicants in the above-identified application.

Exceptional cause exists for granting such leave in view of substantial amounts of overdue fees and expenses owed to the undersigned's current and former firms for more than two years. Notwithstanding repeated representations by applicants' representative to make periodic partial payments, the only payment made in 2003 has been a partial payment of $500 in the form of a check that was returned for insufficient funds.

A final rejection was issued on July 29, 2003. The undersigned filed a Reply under 37 C.F.R. § 1.116 on October 27, 2003. In addition, the undersigned

has written to Maria Simpson, one of the applicants and the person who has been in contact with the undersigned in giving instructions, to outline the options available. Consequently, no substantial prejudice will be suffered by the applicants who have ample time with petitions for extension of time to retain new counsel.

Accordingly, early action on this request is earnestly solicited to give applicants the most time to pursue their options.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #1242/42657).

Respectfully submitted,

November 13, 2003

James F. McKeown
Registration No. 25,406

CROWELL & MORING, LLP
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

CAHN & SAMUELS LLP
2000 P STREET NW
SUITE 200
WASHINGTON DC 20036

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DEC 0 5 2007

OFFICE OF PETITIONS

In re Application of :
Maria Simpson et al. :
Application No. 08/678,510 : DECISION ON PETITION
Filed: July 9, 1996 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: 908.0002 :
Title: HIGH-VOLUME-MANUFACTURE :
FUEL CELL ARRANGEMENT AND :
METHOD FOR PRODUCTION THEREOF :

This is a decision on the petition filed May 22, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

Petitioner will note that the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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1 A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-compliance with the requirements of 37 C.F.R. § 1.192(c) that was mailed on June 2, 2004.

The Office mailed a final Office action on July 29, 2003, which set a shortened statutory period for reply of three months. An after-final amendment was filed on October 27, 2003, a Notice of Appeal was filed on December 29, 2003 along with a two-month extension of time, and an advisory action was mailed on January 2, 2004. An appeal brief was filed on March 1, 2004, and a "Notification of Non-compliance with the requirements of 37 CFR 1.192(c)" was mailed on June 2, 2004, which set a one-month period for response. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further response was received. Accordingly, the above-identified application became abandoned on July 3, 2004. A notice of abandonment was mailed on December 15, 2004.

With the present petition, Petitioner has met requirements (1) and (2) of Rule § 1.137(b). The fourth requirement is not applicable. Petitioner has included both the petition fee and the proper statement of unintentional delay. The Examiner has reviewed the concurrently submitted after-final amendment, and it shall serve as the required reply.

Regarding the third requirement, Petitioner has not established that the entire period of delay was unintentional. It is noted that the present petition was not filed until more than two years and five months had passed since the mailing of the notice of abandonment. It is not clear why the Applicant chose to take no course of action for such a long period of time. It does not appear that any action was taken to further the prosecution of this application, subsequent to the mailing of the notice of June 2, 2004, for more than two years and five months.

It is equally unclear what, after all of this time, prompted the Applicant to advance the prosecution of this application.

As such, it appears that the Applicant intentionally allowed this application to go abandoned. The extended inaction of the Applicant appears to be intentional.

A discussion follows.

In order for a petition under 37 C.F.R. § 1.137(b) to be granted, the holder of the rights to the application must have unintentionally allowed the application to go abandoned, and a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 C.F.R. § 1.137(b).

The periods of delay:

There are three periods to be considered during the evaluation of a petition under 37 C.F.R. § 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 C.F.R. § 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 C.F.R. § 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) or (2).

As to Period (1), the patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 C.F.R. § 1.137(b)(3) provides that a petition under 37 C.F.R. § 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here there is a question

whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay of more than two years and five months in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional. The question under 37 C.F.R. § 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment. That party, in turn must explain what effort(s) was made to reply to the outstanding Office action and further, why no reply was filed. If no effort was made to reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Petitioner should explain why this application became abandoned subsequent to the mailing of the notice of June 2, 2004. Statements from both the Applicant and the former counsel of record must be provided. It must be explained why no response was submitted to this notice for such an extended period of time.

As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2), where the applicant deliberately chose not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application

cannot be considered as "unintentional" within the meaning of 37 C.F.R. § 1.137(b)[2].

The language of both 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 C.F.R. § 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated clear that any protracted delay (here, two years and five months) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from both the Applicant and former counsel, explaining why this petition was not filed sooner.

Punctuality and Due Diligence:

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

2 See MPEP 711.03(c).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

The lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

On renewed petition, Petitioner will need to address each of these issues, and include statements from both the Applicant and former counsel, if it is to be established that the entire period of delay was unintentional.

Petitioner is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

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

Thereafter, there will be no further reconsideration of this matter[3, 4].

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[5], hand-delivery[6], or facsimile[7]. Registered

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3 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

4 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

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

users of EFS-Web may alternatively submit a response to this decision via EFS-Web[8].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included – adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[9]. 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

6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
9 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

CAHN & SAMUELS LLP
2000 P STREET NW
SUITE 200
WASHINGTON DC 20036

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OCT 28 2008

OFFICE OF PETITIONS

In re Application of :
Maria Simpson et al. :
Application No. 08/678,510 : DECISION ON RENEWED PETITION
Filed: July 9, 1996 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: 908.0002 :
Title: HIGH-VOLUME-MANUFACTURE :
FUEL CELL ARRANGEMENT AND :
METHOD FOR PRODUCTION THEREOF :

This is a decision on the renewed petition filed on February 5, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive this application.

This renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-compliance with the requirements of 37 C.F.R. § 1.192(c) that was mailed on June 2, 2004.

The Office mailed a final office action on July 29, 2003, which set a shortened statutory period for reply of three months. An after-final amendment was filed on October 27, 2003, a Notice of Appeal was filed on December 29, 2003 along with a two-month extension of time, and an advisory action was mailed on January 2, 2004. An appeal brief was filed on March 1, 2004, and a "Notification of Non-compliance with the requirements of 37 CFR 1.192(c)" was mailed on June 2, 2004, which set a one-month period for response. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further response was received. Accordingly, the above-identified application

became abandoned on July 3, 2004. A notice of abandonment was mailed on December 15, 2004.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on May 22, 2007, which was dismissed via the mailing of a decision on December 5, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With the original petition, Petitioner met requirements (1) and (2) of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required. Petitioner included both the petition fee and the proper statement of unintentional delay. The Examiner reviewed the concurrently submitted after-final amendment, and has indicated that it shall serve as the required reply.

With this renewed petition, Petitioner has included a statement that establishes that the entire period of delay was unintentional.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on May 22, 2007 can be processed.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1] All other

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is

inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 43

FISH & RICHARDSON PC
1425 K STREET NW
11TH FLOOR
WASHINGTON, DC 20005-3500

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SEP 0 4 2003

OFFICE OF PETITIONS

In re Application of
Hisashi Ohtani et al
Application No. 08/678,591
Filed: July 11, 1996
Attorney Docket No. 07977/044001

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed September 3, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 6, 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 should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2812 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 23 2004

David L. Parker
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

In re Application of	:	
LOPEZ-BERESTEIN et al	:	Decision on Petition
Serial No.: 08/679,437	:	
Filed : 8 July 1996	:	
Attorney Docket No.: UTXC:483	:	

This letter is in response to the Petition under 37 C.F.R. 1.181 filed on 2 March 1998 and refiled on 8 December 2003. The petition has only been recently forwarded to the deciding official. The delay in acting upon this petition is regretted.

The petition requests entry of the amendment filed 2 January 1998. A review of the file shows that paragraph 1 of the Office action mailed 28 September 2001 indicates that

> Prosecution on the merits in this application has been re-opened. The following Office action is based upon the claims as amended in the after final response filed 2 January 1998.

Accordingly, the petition filed under 37 CFR 1.181 is considered moot and **DISMISSED**.

The application will be forwarded to the Board of Patent Appeals and Interferences.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450; ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

Jasemine C. Chambers

Jasemine Chambers
Director, Technology Center 1600

NOTICE RE: CERTIFICATES OF CORRECTION 23

DATE : 5-17-01

TO : Supervisor, Art Unit 2700

SUBJECT: Certificate of Correction Request in Patent No. 6098082

EXPEDITE 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?

☒ 4. With respect to the change(s) requested, correcting ~~Office errors~~ Claim 1, 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 ROOM 922, PK III

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	☐ NO	☐ Comments below
☐	5.YES	☐ NO	☐ Comments below

☐ Comments _____

Mark Gin — Supervisor

2671 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

S H DWORETSKY
AT & T CORP
PO BOX 4110
MIDDLETOWN NJ 07748

In re Application of David C. Gibbon et al. Application No. 08/679,976 Patent No. 6,098,082 Filed: July 15, 1996 Issued: August 1, 2000 Attorney Docket Number: 9-9 Title: A METHOD FOR AUTOMATICALLY PROVIDING A COMPRESSED RENDITION OF A VIDEO PROGRAM IN A FORMAT SUITABLE FOR ELECTRONIC SEARCHING AND RETRIEVAL	:	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181

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OFFICE OF PETITIONS

This is a decision on the petition pursuant to 37 C.F.R. § 1.181 filed on February 23, 2000, requesting that the holding of abandonment in the above-identified application be withdrawn.

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

BACKGROUND

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due (notice), mailed December 21, 1998, which set a shortened statutory period for reply of three months. It is noted that the issue fee was received on March 2, 1999. No extensions of time are permitted for transmitting corrected drawings.[1] Accordingly, the above-identified

1 See MPEP § 710.02(e).

application became abandoned on March 22, 1999. A Notice of Abandonment was mailed on December 15, 1999.

With this petition, Petitioner has submitted a postcard receipt, which establishes that "Drawings (New Formal) 4 # of Sheets" were received in the Office on February 8, 1999.

Moreover, it is noted that the notice of abandonment was rescinded in the Notice of Rescinded Abandonment that was mailed on June 17, 2000, and that this application issued as U.S. patent number 6,098,082 on August 1, 2000.

As such, this petition is **DISMISSED AS MOOT.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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

Paper No. 18

ROCKEY, MILNAMOW & KATZ, LTD.
TWO PRUDENTIAL PLAZA-SUITE 4700
180 NORTH STETSON AVENUE
CHICAGO, IL 60601

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APR 24 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Schmidt, et al. :
Application No. 08/680,067 : ON PETITION
Filed: July 15, 1996 :
Attorney Docket No. SE10-0108 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 1999, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the nonfinal Office action mailed September 14, 1998. Accordingly, this application became abandoned on December 15, 1998. A Notice of Abandonment was mailed on March 29, 1999.

The file is being forwarded to Technology Center 1700 for review of the amendments filed on July 2, 1999 and October 20, 1999.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

Karen Canaan for

Beverly M. Flanagan
Supervisory 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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Paper No. 32

PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

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APR 16 2003

OFFICE OF PETITIONS

In re Application of :
Wayne J. Schmidt et al. :
Application No. 08/680,067 : ON PETITION
Filed: July 15, 1996 :
Attorney's Docket No. 291958182US :

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

The petition is **GRANTED**.

This application became abandoned on June 28, 2001 for failure to timely submit a reply to the non-final Office action mailed on March 27, 2001, 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. Accordingly, a Notice of Abandonment was mailed November 6, 2001.

This application became abandoned because of numerous filings with different correspondence addresses. The file has not and does not now appear to bear any clear directions with respect to the correspondence address. The withdrawal of prior counsel for the assignee has been approved. However, the Attorney of Record and the Assignee should make a decision and file the proper documentation to clarify the record as to the correspondence address. Future mailings will only be mailed to one address.

This application is being forwarded to Technology Center 1700 for appropriate action on the response filed October 3, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
Semitool, Inc
655 W Reserve Drive
Kalispell MT 59901

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)
5,841,775	1998-11-24	08/680,680	1996-07-16	

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	/Alan Huang/	Date (YYYY-MM-DD)	2008-08-20
Name	Alan Huang		

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. 5841775
Issue Date: November 24,1998
Application No. 08680680
Filed: July 16,1996
Attorney Docket No. 2458

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

This is a decision on the electronic petition, filed August 20,2008 ,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 20,2008 . 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.

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)
5676529	1997-10-14	08680749	1996-07-15	SLIP-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	/Leonard Tachner/	Date (YYYY-MM-DD)	2007-10-03
Name	Leonard Tachner	Registration Number	26344

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.

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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. 5676529
Issue Date: October 14,1997
Application No. 08680749
Filed: July 15,1996
Attorney Docket No. SLIP-2

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

This is a decision on the electronic petition, filed October 3,2007 ,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 3,2007 . 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.

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)
5848998	1998-12-15	08682888	1996-07-11	Marasco-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

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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	/Donald N. Halgren/	Date (YYYY-MM-DD)	2007-12-12
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.**

Privacy Act Statement

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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. 5848998
Issue Date: December 15,1998
Application No. 08682888
Filed: July 11,1996
Attorney Docket No. MARASCO-1

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

This is a decision on the electronic petition, filed December 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 December 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.

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)
5748629	1998-05-05	08683152	1996-07-18	

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	/DJCushing/	Date (YYYY-MM-DD)	2007-10-31
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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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.

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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.

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. 5748629
Issue Date: May 5,1998
Application No. 08683152
Filed: July 18,1996
Attorney Docket No. ASCOM-112XX

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

This is a decision on the electronic petition, filed October 31,2007 ,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 31,2007 . 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 ST[redacted]S DEPARTMENT OF COMMERCE
Patent and [redacted]demark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 21

R. Neil Sudol
Coleman Sudol
708 Third Avenue, 14th Fl.
New York, NY 10017-44101

COPY MAILED

JUN 12 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Matthew H. Romines :
Application No. 08/683,845 : ON PETITION
Filed: July 19, 1996 :
Attorney Docket No. P1551 :

This is a decision on the petition filed May 3, 2000, under 37 CFR 1.182, to change the inventor's name.

The petition is granted.

The Verified Statement under 37 CFR 1.27(c) has been made of record.

The file is being forwarded to the Office of Initial Patent Examination, Customer Corrections, to change Office records to correct and change the inventor's name from Matthew H. Romines to Matthew Rhome. **Afterwards, the file will be forwarded to the Office of Patent Publication to oversee review of the drawings filed on May 3, 2000.**

Telephone inquiries concerning this matter may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 17

DATE : 09/25/06

TO SPE OF : ART UNIT ~~2773~~ 2174

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/684130 Patent No.: 6008805

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

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.

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

Comments: OK (sh.)

For Kristine Kincaid 2174

SPE **Art Unit**

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)
5911030	1999-06-08	08685559	1996-07-24	ID 035907

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	/DJCushing/	Date (YYYY-MM-DD)	2007-06-26
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.**

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)).

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. 5911030
Issue Date: June 8,1999
Application No. 08685559
Filed: July 24,1996
Attorney Docket No. Q42254

:

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

:

This is a decision on the electronic petition, filed June 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 June 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.

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)
5783872	1998-07-21	08/685,886	1996-07-25	

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

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	/Marie E Flannery/	Date (YYYY-MM-DD)	2010-07-30
Name	Marie Flannery		

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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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. 5783872
Issue Date: July 21,1998
Application No. 08685886
Filed: July 25,1996
Attorney Docket No. 58.841

:

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

:

This is a decision on the electronic petition, filed July 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 July 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.

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)
5,770,016	1998-06-23	08686507	1996-07-26	CSP-13202/38

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

	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	/Avery N. Goldstein/	Date (YYYY-MM-DD)	2007-06-15
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.**

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.

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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. 5770016
Issue Date: June 23,1998
Application No. 08686507
Filed: July 26,1996
Attorney Docket No. 2872L-00214C

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

This is a decision on the electronic petition, filed June 15,2007 ,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 15,2007 . 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

In re Patent No. 5823398
Issue Date: October 20,1998
Application No. 08686520
Filed: July 26,1996
Attorney Docket No. PC-306-CIP

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

This is a decision on the electronic petition, filed December 28,2006 ,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 28,2006. 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.

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)
5823398	1998-10-20	08686520	1996-07-26	

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

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	/####/Rhonda L. Russillo (Leavitt)/	Date (YYYY-MM-DD)	2006-12-28
Name	Rhonda L. Russillo (Leavitt)		

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.

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)
5765089	1998-06-09	08686728	1996-07-26	ID 012007 - 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

	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	/DJCushing/	Date (YYYY-MM-DD)	2007-02-23
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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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).

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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. 5765089
Issue Date: June 9,1998
Application No. 08686728
Filed: July 26,1996
Attorney Docket No. 35.C6163

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

This is a decision on the electronic petition, filed February 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 February 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.

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)
5776001	1998-07-07	08687451	1996-10-03	442005-00098

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	/David R. Jaglowski/	Date (YYYY-MM-DD)	2006-11-22
Name	David R. Jaglowski	Registration Number	58514

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.

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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. 5776001
Issue Date: July 7,1998
Application No. 08687451
Filed: October 3,1996
Attorney Docket No. P514-6002

:

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

:

This is a decision on the electronic petition, filed November 22,2006 ,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 22,2006. 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)
5768841	1998-06-23	08687834	1996-07-26	10006-008A

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	/Jerry Turner Sewell/	Date (YYYY-MM-DD)	2010-06-30
Name	JERRY TURNER SEWELL	Registration Number	31567

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. 5768841
Issue Date: June 23,1998
Application No. 08687834
Filed: July 26,1996
Attorney Docket No.

:
: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.

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)
5,699,900	1997-12-23	08/688,269	1996-07-29	115.0001

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	/fsamuels/	Date (YYYY-MM-DD)	2007-05-09
Name	Frederick N. Samuels, Esq.	Registration Number	34715

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. 5699900
Issue Date: December 23,1997
Application No. 08688269
Filed: July 29,1996
Attorney Docket No. 115.0001

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

This is a decision on the electronic petition, filed May 9,2007 ,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 9,2007 . 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.

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)
5781259	1998-07-14	08688553	1996-07-30	ID 018307 -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)	2007-03-20
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.**

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.

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. 5781259
Issue Date: July 14,1998
Application No. 08688553
Filed: July 30,1996
Attorney Docket No. 44.504-FWC2

:
: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.

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)
5800922	1998-09-01	08688702	1996-07-30	04-180-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

	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	/Cheryl L. Gastineau/	Date (YYYY-MM-DD)	2007-11-14
Name	Cheryl L. Gastineau	Registration Number	39469

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.

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. 5800922
Issue Date: September 1,1998
Application No. 08688702
Filed: July 30,1996
Attorney Docket No. 96-0571

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

This is a decision on the electronic petition, filed November 14,2007 ,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 14,2007. 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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Paper No. 10

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MAR 1 0 2003

OFFICE OF PETITIONS

DAVID L. HEDDEN
ASHLAND CHEMICAL COMPANY
P.O. BOX 2219
COLUMBUS, OH 43216

In re Application of :
George K. Wai :
Application No. 08/689,193 : ON PETITION
Filed: August 5, 1996 :
Attorney Docket No. 5404

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 1998, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the issue fee in a timely manner in reply to the Notice of Allowance mailed June 18, 1998, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 19, 1998.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within ONE MONTH from the mail date of this decision.

The Office sincerely apologizes for the delay of this decision.

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

Attachment: blank Issue Fee Transmittal Form

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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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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OFFICE OF PETITIONS

In re Application of	:
Molbak et al.	:
U.S. Patent No.: 7,028,827	:
Issue Date: April 18, 2006	: Decision on Petition for
Application No. 08/689,826	: Patent Term Extension
Filed: August 12, 1996	:
Attorney Docket No. 213828001US2	:
For: COIN COUNTER/SORTER AND	:
COUPON/VOUCHER DISPENSING	:
MACHINE AND METHOD	:

The above-identified application has been forwarded to the undersigned for consideration on the "Petition For Patent Term Extension Under 37 CFR 1.701 and 37 CFR 1.181," which was received on April 14, 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 under 37 CFR 1.182, since 37 CFR 1.701 does not provide for patent term extension in this application.

The petition is dismissed.

Petitioner notes that the above-identified application was filed on August 12, 1996, a Notice of Appeal was filed on July 16, 1998 and the Board of Patent Appeals and Interferences (BPAI) remanded the application to the Examiner on January 30, 2004. Petitioner argues that the Notice of Allowance and Issue fee mailed on January 12, 2006, improperly failed to include a patent term extension of 406 days. Petitioner asserts that the application would be entitled to 2024 day of patent term extension, but due 37 CFR 1.701(d)(1) and the terminal disclaimer filed on January 16, 1997, in response to an obvious double patenting rejection, the term should be 406 days.

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 August 12, 1996, 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 a remand 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.

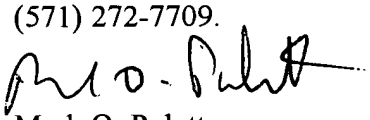
On January 16, 1997, Applicant filed a terminal disclaimer. Under 37 CFR 1.701(a)(3), the patent is not entitled to patent term extension because the patent is subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct. The statute states 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 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.

After mailing of this decision, the above-identified application will be returned to the Files Repository.

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 required $400 fee for the petition under 37 CFR 1.182 has been paid.

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

08693789

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 92204

Paper No.: _____

TO SPE OF : ART UNIT 1700

SUBJECT : Request for Certificate of Correction on Patent No.: 5831108

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.

Should inventor be added?

R. Johnson

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:

JOHANN RICHTER
SUPERVISORY PATENT EXAMINER
GROUP 1200

SPE

1621
Art Unit

PTOL-308 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

BEST AVAILABLE COPY

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)
5,921,161	1999-07-13	08/694,518	1996-08-09	1806

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	/Brian Beverly/	Date (YYYY-MM-DD)	2007-08-01
Name	Brian Beverly	Registration Number	39609

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. 5921161
Issue Date: July 13,1999
Application No. 08694518
Filed: August 9,1996
Attorney Docket No. 1806

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

This is a decision on the electronic petition, filed August 2,2007 ,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 2,2007 . 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
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OFFICE OF PETITIONS

GEORGE L WILLIAMSON
PO BOX 508
FAIRHOPE AL 36533

In re Patent No. 5,796,343
Issue Date: August 18, 1998
Application No. 08/695,528
Filed: August 12, 1996
Patentee: Gary D. Stauder

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.378(b), filed March 15, 2006, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) is **DISMISSED**.

The above-identified patent issued August 18, 1998. Accordingly, the first maintenance fee could have been paid during the period from August 18, 2001 through February 18, 2002 without surcharge, or with a late payment surcharge during the period from February 18, 2002 through August 18, 2002. No maintenance fee having been received, the patent expired on August 19, 2002.

37 CFR 1.378(b) provides that:

> Any petition to accept an unavoidably delayed payment of a maintenance fee must include:
>
> (1) The required maintenance fee set forth in 37 CFR 1.20(e) through (g) (currently 450);
>
> (2) The surcharge set forth in 37 CFR 1.20(i)(1) (currently $700); 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 does not meet requirement (3) above.

With regards to requirement (3), acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 USC 133. **This is a very stringent standard.** Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Petitioner states that he received a letter from his attorney, stating that the maintenance fee was due in 2002. Petitioner contacted the attorney by telephone, at which time the attorney told petitioner that if the patent expired due to failure to pay the maintenance fee, petitioner simply had to pay a fee to reinstate the patent. According to petitioner, the attorney informed petitioner "not to worry" about the situation. In 2004, petitioner set up an appointment with the attorney to discuss the patent and the maintenance fee. However, the attorney did not show up for the appointment. Petitioner was unable to contact the attorney. In February of 2006, petitioner finally contacted attorney Williamson, who informed petitioner that the information given to him by his first attorney was incorrect.

Petitioner has not demonstrated that he acted as a prudent and careful man in relation to his most important business. Petitioner has not shown why he was unavoidably prevented from calling the Patent and Trademark Office to inquire about paying the maintenance fee, especially after his first attorney missed the appointment back in 2004 and petitioner was subsequently unable to track him down. In fact, the record does not show that petitioner took any activity or interest in this patent for an extended period of time.

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(f). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the maintenance fee and the surcharge set forth in §1.20(i) are subject to refund 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. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Branch, at: Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria VA 22313-1450). A copy of the last decision rendered should accompany the request for refund).

Further correspondence should be addressed as follows:

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GALLAGHER & LATHROP
A Professional Corporation
601 California Street
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San Francisco, CA. 94108

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MAR 30 2009

OFFICE OF PETITIONS

In re Patent No. 6,222,589 :
Issue Date: April 24, 2001 : CORRECTED DECISION
Application No. 08/695,837 : ON PETITION
Filed: August 8, 1996 :
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 '589 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.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 28

BROWNING & BUSHMAN
5718 WESTHEIMER SUITE 1800
HOUSTON, TX 77057

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AUG 1 4 2003

OFFICE OF PETITIONS

In re Application of
Defourney et al.
Application No. 08/696,986
Filed: March 3, 1997
Attorney Docket No. DBS38

DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. 1.10(e) TO CONSIDER CORRESPONDENCE FILED IN THE PATENT OFFICE ON THE USPS DEPOSIT DATE," filed August 8, 2003.

The petition under § 1.10(e) is **DISMISSED**. However, for the reasons set forth herein, it is concluded that the correspondence is entitled to be considered received on June 8, 2000, the USPS Deposit Date.

The above-identified application became abandoned for failure to timely pay the required issue fee within the statutory period of three (3) months from the mailing date, March 13, 2000, of the Notice of Allowance and Issue Fee Due. No extensions of time are permitted for transmitting issue fees. Accordingly, the above-identified application became abandoned on June 14, 2000. A Notice of Abandonment was mailed on August 7, 2000.

On August 8, 2003, applicants filed the instant petition, asserting that a request for continued prosecution application (CPA) should be considered filed in the Office on June 8, 2000, the date that the CPA was deposited in the USPS pursuant to 37 CFR 1.10. However, the instant petition was filed more than three years after the date petitioner states the CPA was deposited in the Express Mail service of the USPS. 37 CFR 1.10(e)(1) requires that a petition be filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence. The instant petition does not support a conclusion that the three year delay in filing the petition should be considered a prompt filing within the meaning of 37 CFR 1.10(e). Accordingly, the petition under § 1.10(e) is dismissed.

Nonetheless, a review of the application file reveals that notwithstanding the instant petition, applicants are entitled to entry in the record of a continued prosecution application (CPA) filed June 8, 2000. Specifically, a review of the application file reveals that the CPA with an OIPE date of receipt stamp of June 8, 2000 is present in the file of application number 08/696,986. Furthermore, on June 12, 2000, the filing fee for a CPA, and associated fees provided therewith, were processed.

In view thereof, the holding of abandonment for failure to respond to the Notice of Allowance is hereby **withdrawn**.

The application file is being returned to Technology Center 3673 for entry of the request for continued prosecution application (Paper No. 26) timely filed June 8, 2000.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 19

Hill & Hunn, LLP
201 Main Street
Suite 1440
Fort Worth, TX 76102

COPY MAILED

SEP 2 1 2004

OFFICE OF PETITIONS

In re Application of :
Eduardo J. Moura :
Application No. 08/697,080 : ON PETITION
Filed: August 20, 1996 :
Attorney Docket No. 0733MH-42371 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

A Notice of Allowance was mailed to applicant on February 10, 2003, setting a three-month statutory period within which to submit the issue fee and corrected drawings. Since no reply was received, the application became abandoned on May 11, 2003.

The issue fee has been received. However, corrected drawings as required by the Notice of Allowability have not. In view thereof, the application cannot be revived until such corrected drawings are received in the Office.

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

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

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475[1].

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be changed to (571) 272-3223, as this is the date the Office of Petitions anticipates moving to the new USPTO facility in Alexandria, VA.

UNITED STATES 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. 23

Hill & Hunn, LLP
201 Main Street
Suite 1440
Fort Worth, TX 76102

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DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Eduardo J. Moura	:	
Application No. 08/697,080	:	ON PETITION
Filed: August 20, 1996	:	
Attorney Docket No. 0733MH-42371	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 15, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being forwarded the Publishing Division to be processed into a patent.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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MAIL

NOV 3 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Patent No. 6,862,264
Issue Date: March 1, 2005
Appl No.: 08/697,080
Filed: August 20, 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 11/22/05
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

In re Patent No. 5,959,997
Issue Date: August 28, 1999
Appl No.: 08/697,246
Filed: August 21, 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 11/17/05
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. 5,959,997 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. 5,959,997
Patented: August 28, 1999

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 L. Packer, Los Gatos, CA
Robert A. Luxenberg, Woodside, CA

Seema S. Rao 11/16/05

Seema S. Rao
Supervisory Patent Examiner
Art Unit 2666

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

#19
5-2-00

In re Application of
MOVALLI et al.
Serial No.: 08/697,421
Filing Date: August 23, 1996
For: METHOD AND APPARATUS FOR GENERATING SECURE ENDORSED TRANSACTIONS

DECISION

WITHDRAWING

NOTICE OF ABANDONMENT

This decision is in response to the "PETITION TO THE COMMISSIONER REQUESTING WITHDRAWAL OF THE HOLDING OF ABANDONMENT UNDER 37 C.F.R. §1.181 AND M.P.E.P. § 711.03(c)" filed February 28, 2000. No petition fee is required.

The petition is **GRANTED**.

The Notice of Abandonment mailed February 15, 2000, is **WITHDRAWN**.

Applicants' original notice of appeal has been located and matched with the application file. On the basis that the notice of appeal was timely filed, it is appropriate to withdraw the February 15, 2000, Notice of Abandonment and reset the two month time period under 37 CFR 1.192(a) for the filing of an Appeal Brief.

The two month time period under 37 CFR 1.192(a) for filing an Appeal Brief is hereby re-started and expires **TWO MONTHS** from the mailing date of this decision. Failure to timely file an Appeal Brief will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

The application is being forwarded to the Technical Support Staff of Technology Center 2800 for (1) withdrawing the holding of abandonment, (2) entering the Notice of Appeal, and (3) re-starting the two (2) month time period for filing an Appeal Brief.

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

MAILED

MAR 02 2000

OFFICE OF DIRECTOR
GROUP

Jeffrey A. Berkowitz
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington, D. C. 20005

BWB/DTH:dth

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)
5763201	1998-06-09	08697960	1996-09-03	102-95A

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	/donnamferber/	Date (YYYY-MM-DD)	2008-06-05
Name	Donna M. Ferber, Ph.D.	Registration Number	33878

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.

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)
5650229	1997-07-22	08698289	1996-08-15	374/1207

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	/WJS/	Date (YYYY-MM-DD)	2009-08-24
Name	William J. Sapone	Registration Number	32518

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. 5650229
Issue Date: July 22,1997
Application No. 08698289
Filed: August 15,1996
Attorney Docket No. 300/1207(CON

:

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

:

This is a decision on the electronic petition, filed August 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 August 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 17 2005

M. Reid Russell
1240 East 100 South #10
St George, UT 84790

#12

In re Application of Kim Bertin		: DECISION ON PETITION : TO WITHDRAW
Serial No.	: 08/698,781	: HOLDING OF
Filed	: August 16, 1996	: ABANDONMENT
For	: Method for Resecting the Knee Using a Resection Guide and Provisional Prosthetic Component	:

This is a decision on a Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a) filed March 19, 2002, which petition is being treated as a request under 37 CFR 1.181 to review a holding of abandonment for failure to pay the issue fee and file formal drawings as required in the Notice of Allowance and Issue Fee Due and Notice of Allowability, respectively, mailed April 3, 1998. No Notice of Abandonment has been mailed in the instant application. There is no fee required for this petition.

In support of the request, petitioner has provided a statement that on June 17, 1998 he prepared and mailed an Issue Fee Transmittal letter, a signed check to cover the issue fee, and a Letter to the Chief Drafstman with three sheets of formal patent drawings. The papers listed above included a Certificate of First Class Mailing dated June 17, 1998, which date is within the three-month period for response set in the communication of April 3, 1998. A copy of the June 17, 1998 communication has been provided with the instant petition.

In view of the above, the holding of abandonment is withdrawn. The issue fee has been charged per the instructions in the petition. Further, the formal drawings submitted under separate cover on March 27, 2002 are acceptable. Upon the mailing of this decision, the application will be forwarded to the Office of Publications.

Summary: Holding of Abandonment Withdrawn.

Esther M. Kepplinger, Director
Technology Center 3700
Phone: (571) 272-2975

ak/02/10/05

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. 30

Kenneth J. Johnson
Marsh Fishmann & Breyfogle, LLP
3151 S. Vaughn Way, Suite 411
Aurora, Colorado 80014

COPY MAILED

FEB 2 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Ronald REUTER et al.	:	DECISION
Application No. 08/699,261	:	ON PETITION
Filed: August 19, 1996	:	37 CFR 1.137(b)
Attorney Docket No. 1317(42059-00280)	:	

This is a decision on the petition filed November 13, 2002, under 37 CFR 1.137(b).

The petition is GRANTED.

The application became abandoned for failure to file a Brief on Appeal pursuant to 37 CFR 1.192, within the time period specified in 37 CFR 1.192(a), in response to the Notice of Appeal filed December 5, 2000. A Notice of Abandonment was mailed on September 10, 2001.

The instant application is being forwarded to Technology Center 2600 for consideration of Petitioner's Brief on Appeal.

Inquiries regarding this communication may be directed to B. Dayoan at (703) 308-3865 or, in her absence, 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
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 35

U. S. Army Medical Research &
Material Command
Attn: MCMR J.A. John Moran
Fort Detrick Frederick, MD 21702-5012

COPY MAILED

JUN 2 4 2003

OFFICE OF PETITIONS

In re Application of :
David G. Heath et al. :
Application No. 08/699,716 : ON PETITION
Filed: August 27, 1996 :
Attorney Docket No. 003/029/SAP :

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2003, 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.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 5, 2002. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a continuing application. See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee) or the filing of a continuing application. Alternatively, the reply requirement may be met by the filing of a submission under 37 CFR 1.129(a) if the above-identified application is eligible for such transitional practice.

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

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

By mail:	Mail Stop Petitions 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 Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: U.S. A. MRMC
MCMR-JA (Elizabeth Arwine)
504 Scott Street
Fort Detrick, MD 21702-5012

Attachment: "Courtesy Copy of Advisory Action"

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 39

MCMR SGRD-JA
US Army MRMC
504 Scott Street
Fort Detrick, MD 21702-5012

COPY MAILED

SEP 24 2003

OFFICE OF PETITIONS

In re Application of :
David G. Heath et al. :
Application No. 08/699,716 : ON PETITION
Filed: August 27, 1996 :
Attorney Docket No. 003/029/SAP :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 22, 2003, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center 1645 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 27

DATE : 12-9-04

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction on Patent No.: 6118045

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.

E. James

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:

Please make changes as requested.

RAM R. SHUKLA, PH.D.
PRIMARY EXAMINER

SPE

1632
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

In re Patent No. 5664717
Issue Date: September 9,1997
Application No. 08700814
Filed: August 21,1996
Attorney Docket No. TF-2027-04-P

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

This is a decision on the electronic petition, filed October 15,2009 ,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 15,2009 . 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)
5664717	1997-09-09	08700814	1996-08-21	TF-2027-04-P

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 M. Lang/	Date (YYYY-MM-DD)	2009-10-15
Name	David M. Lang	Registration Number	53182

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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Alexandria, VA 22313-1450
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ONE AMGEN CENTER DRIVE
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NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Curless et al.	:	
Application No. 08/701,032	:	ON PETITION
Filed: August 21, 1996	:	
Attorney Docket No. A-291A	:	

This is a decision on the petition under 37 C.F.R. § 1.181, filed August 18, 2003, to withdraw holding of abandonment based on failure to receive office action.

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

The above-identified application was held abandoned for failure to timely reply to the Notice of Allowance mailed January 22, 2003, which set a statutory period for reply of three (3) months. A reply was due on or before April 22, 2003. A Notice of Abandonment was mailed on July 14, 2003.

Petitioner states that the Notice of Allowance was never received. An allegation that an Office action was not received must be adequately supported. The showing required to establish non-receipt of an Office communication must include:

1. 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.

2. 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.[1]

Petitioner has complied with the above requirements. In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the $130.00 petition fee will be credited to petitioner's deposit account.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

The Office sincerely apologizes for the inconvenience caused the petitioner in this matter.

This matter is being referred to Technology Center AU 1653 for mailing of a new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 7,2007

TO SPE OF : ART UNIT 3743

SUBJECT : Request for Certificate of Correction for Appl. No.08/701244 patent no.RE39508

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: _____

Justin R. Y
SPE

3771
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)
5735103	1998-04-07	08701818	1996-08-23	8402.054

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	/klhester/	Date (YYYY-MM-DD)	2010-04-13
Name	Kathryn L. Hester, Ph.D.	Registration Number	46768

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. 5735103
Issue Date: April 7,1998
Application No. 08701818
Filed: August 23,1996
Attorney Docket No. 8402.054

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

This is a decision on the electronic petition, filed April 13,2010 ,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 13,2010 . 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.

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)
6031930	2000-02-29	08701974	1996-08-23	107126-58289

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	/Daniel S. Goldberg/	Date (YYYY-MM-DD)	2008-03-04
Name	Daniel S. Goldberg	Registration Number	39689

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. 6031930
Issue Date: February 29,2000
Application No. 08701974
Filed: August 23,1996
Attorney Docket No. 59074

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

This is a decision on the electronic petition, filed March 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 March 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 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.

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)
5,995,457	1999-11-30	08/702,293	1996-08-20	

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

	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	/Steven I. Wallach #35402/	Date (YYYY-MM-DD)	2008-05-15
Name	Steven I. Wallach	Registration Number	35402

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.

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. 5995457
Issue Date: November 30,1999
Application No. 08702293
Filed: August 20,1996
Attorney Docket No. JUS08

:
: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
www.uspto.gov

Paper No.

MINTZ, LEVIN, COHN,
FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

COPY MAILED

FEB 16 2007

OFFICE OF PETITIONS

Patent No. 5,733,151 :
Issue Date: March 31, 1998 :
Application No. 08/702,350 : DECISION ON PETITION
Filed: August 23, 1996 :
Atty Docket No. H0050/7056-J :

This is a decision on the PETITION UNDER 37 C.F.R. § 1.181 AND 1.182 FOR MATTERS NOT OTHERWISE PROVIDED FOR filed August 18, 2005.

The petition is **DISMISSED AS MOOT**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. This period is governed by 1.181(f) and is not extendable under 37 C.F.R. § 1.136(a).

On petition, patentee requests the acceptance and recordal by the USPTO, of documents making correction in an assignment, where one of the inventors cannot be found. The correction is to change the assignee from a street address, i.e., "Brunswick Research Boulevard" to the corporate entity "Brunswick Biomedical Corporation."

A review of the records of the Office indicates that on August 15, 2005 and August 18, 2005 at ree/frames 016637/0816 and 016891/0794 respectively corrective assignments to correct the assignee information previously recorded were recorded. These documents state the name of the assignee as "Brunswick

Biomedical Corporation." As such, the relief requested appears to be moot. Accordingly, the petition is dismissed.

Further correspondence with respect to this decision 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 related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (10-05)
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 a valid OMB control number.

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

Docket Number (Optional): 424218001US

Mail to: MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 5,741,509 Application Number 08/703,324

Issue Date April 21, 1998 Filing Date August 26, 1996

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

The above-identified patent:

☐ is a reissue of original Patent No. _____ , original issue date _____ ;
original application number _____ ,
original filing date _____ .

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____ .

1. SMALL ENTITY

[X] Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
[ ] $ _____	3 ½ yr fee	(1551)	[ ] $ _____	3 ½ yr fee	(2551)
[ ] $ _____	7 ½ yr fee	(1552)	[X] $ 1,150.00	7 ½ yr fee	(2552)
[ ] $ _____	11 ½ yr fee	(1553)	[ ] $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 1,150.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1,640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $ 1,640.00

5. MANNER OF PAYMENT

[ ] Enclosed is a check for the sum of $ _____ .

[ ] Please charge Deposit Account No. 50-0665 the sum of $ _____ . A duplicate copy of this authorization is attached.

[X] Payment of $2,790.00 by Electronic Funds Transfer

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

[X] The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 50-0665 . A duplicate copy of this authorization is attached.

7. OVERPAYMENT

As to any overpayment made please

[X] Credit to Deposit Account No. 50-0665 .

OR

[ ] Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

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

Signature(s) of Petitioner(s)	3/26/07 Date
Susan D. Betcher Typed or printed name(s)	43,498 Registration Number, if applicable
(206) 359-8000 Telephone Number	

PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247
Address

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."

ENCLOSURES:

[X] Maintenance Fee payment

[X] Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

[X] Revocation/New Power of Attorney; Statement Under 37 CFR 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5741509
Issue Date: April 21,1998
Application No. 08703324
Filed: August 26,1996
Attorney Docket No. N622

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

This is a decision on the electronic petition, filed March 27,2007 ,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 27,2007 . 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.

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)
5,741,509	1998-04-21	08/703,324	1996-08-26	424218001US

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	/SusanBetcher/	Date (YYYY-MM-DD)	2007-03-27
Name	Susan D. Betcher	Registration Number	43498

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.

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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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
www.uspto.go

Paper No. 13

ASSOCIATE COUNSEL PATENTS CODE 3008.2
NAVAL RESEARCH LABORATORY
WASHINGTON, DC 20375-5000

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OFFICE OF PETITIONS

In re Application of :
Ronald R. Price et al :
Application No. 08/703,608 : ON PETITION
Filed: August 27, 1996 :
Attorney Docket No. 77.839 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 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 April 8, 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 July 9, 1998.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on January 24, 2003.

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 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).

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1700 for further processing.

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

#32

UNITED STATES 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 22 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Patent No. 5,946,322
Issue Date: August 31, 1999
Appl No.: 08/703,767
Filed: August 27, 1996
For: MOURA ET AL.

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed July 25, 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 11/22/05
Seema S. Rao
Supervisory Patent Examiner
Art Unit 2666
Technology Center 2600

HILL & HUNN LLP
201 MAIN STREET, SUITE 1440
FORT WORTH, TX 76102

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: #1 of 5

DATE : 3/30/06

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/763965 Patent No.: 5716069

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**.

This application has not been indexed or scanned. RDH

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

1774
Art Unit

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

Paper No. 31

Jack E. Haken
Corporate Patent Counsel
U.S. Philips Corporation
Patent Dept; 580 White Plains Road
Tarrytown, NY 10591

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NOV 1 5 2001

OFFICE OF PETITIONS

In re Application of :
Renate M. Sombroek, et al. :
Application No. 08/704,400 : ON PETITION
Filed: August 27, 1996 :
Attorney Docket No. PHN14.491A :

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner, after the decision of March 13, 2001 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the application became abandoned on May 14, 2001. See MPEP 1214.06.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on September 26, 2001.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and

circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2600, Art Unit 2672.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

cc: Anne E. Barschall
80 Benedict Avenue
Tarrytown, NY 10591

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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NOV 16 2005

OFFICE OF PETITIONS

In re Patent No. 6,867,015 :
Issue Date: March 15, 2005 :
Application No. 08/704,747 : ON PETITION
Filed: September 18, 1996 :
Attorney Docket No: 253.169

This is a decision on the petition, filed November 2, 2005, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **DISMISSED**.

It is U.S. Patent and Trademark Office practice to assure mailing of all papers such as the Letters Patent in this application, on the date indicated and duly addressed and timely delivered to the addressee.

In this instance, however, the Original, Ribboned copy of the Letters Patent mailed March 15, 2005 to the address of record, was returned by the United States Postal Service as "undeliverable". To explain why the Letters Patent was not received, the petition indicates that a change of address was filed but not until the Letters Patent had been mailed by the USPTO.

In view of the above and since the failure to receive the letters patent by the party entitled to receive same was not by fault of the USPTO, a petition and fee in the amount of $400.00 is required. The petition included a payment in the amount of $130.00.

Therefore, since the funds submitted are not sufficient to cover the petition fee and since no deposit account has been authorized, this petition cannot be treated on the merits and will not receive any consideration until an additional $270.00 has been submitted.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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JAN 13 2006

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,867,015 :
Issue Date: March 15, 2005 :
Application No. 08/704,747 :
Filed: September 18, 1996 :
Attorney Docket No: 253.169

This is a decision on the renewed petition, filed December 7, 2005, requesting the issuance of a duplicate Letters Patent for the above-identified application. The petition is treated under 37 CFR 1.182.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about March 15, 2005, but fail to disclose receipt of the Letters Patent mailed on that date, or copies of records on which receipt of the Letters Patent would have been entered had it been received would be required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent.

A petition filed November 2, 2005 was dismissed in a decision mailed November 16, 2005. Petitioners stated that the Letters Patent was not received from the USPTO because the wrong address was used but petitioners did not present persuasive evidence to support the argument that the USPTO erred in mailing the Letters Patent and as such has submitted the request for reconsideration and the required petition fee.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Kimberly Terrell South Tower, 8th Floor (Fax – (571) 273-9740)

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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HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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DEC 20 2006

OFFICE OF PETITIONS

In re Patent No. 6,867,015 :
Issue Date: March 15, 2005 :
Application No. 08/704,747 : ON PETITION
Filed: September 18, 1996 :
Attorney Docket No: 253.169

This is a decision on the second request for a re-mailing of the patent grant. The petition filed November 27, 2006 is treated under 37 CFR 1.182.

The petition is **GRANTED**.

A petition for duplicate letters patent filed November 2, 2005 was dismissed in a decision mailed November 16, 2005, because although petitioners had stated that the Letters Patent was not received from the USPTO, petitioners did not present persuasive evidence to support the argument that the USPTO erred in mailing the Letters Patent.

In view of the above, a renewed petition filed December 7, 2005 was granted January 13, 2006 as petitioners submitted the appropriate petition fee for issuance of duplicate letters patent.

Comes now petitioner with the instant request as the duplicate letters patent, in accordance with the decision mailed January 13, 2006, to date have not been received.

A copy of this decision is being forwarded to the Publishing Division again for issuance of the Original Letters Patent stored in the Artifact Folder.

The Publishing Division is directed to issue the Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of the Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (571) 273-9756)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY & LARDNER
3000 K STREET, N.W., SUITE 500
P.O. BOX 25696
WASHINGTON DC 20007-8696

COPY MAILED
SEP 22 2006
OFFICE OF PETITIONS

Patentee: Bell et al.
Patent No.: 5,736,720
Application No.:08/705,220
Filed: August 29, 1996
Issue Date : April 7, 1998
Title of Invention: Loader Mounted Paintball Game Scorekeeper and An Associated Paintball Game System

: DECISION ON PETITION

This is a decision on the petition filed July 24 , 2006 under 37 CFR 1.378(c), to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued April 7, 2001. The last day of the grace period for paying the seven and one-half (7½) year maintenance fee was April 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.

There is no indication that Petitioner herein was ever empowered to prosecute the application. If Petitioner desires to receive future correspondence regarding this patent, the appropriate power of

attorney documentation and change of correspondence address 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.

This file is being forwarded to the Files Repository.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: David B. Pieper
1 East Center Street, Suite 217
Fayetteville, AR 72701

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-4-08 Paper No.: _____

TO SPE OF : ART UNIT 3724

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/705326 Patent No.: 6032898

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

FOR IFW FILES: Please Review COFC

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

Ennis Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

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

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

Comments: The following changes are not approved: Column 1, line 41; column 1, line 42; IN column 1, line 42, second occurrence; IN column 8, claim 3, line 45. See ATTACHMENT.

BOYER D. ASHLEY
~~SUPERVISORY PATENT EXAMINER~~
SPE

3724
Art Unit

ATTACHMENT to
PTOL-306
Showing non-allowed
changes. RA

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,032,898
DATED : March 7, 2000
INVENTOR(S) : LaCount et al.

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

X In column 1, line 41, after "pressure" insert –(i.e., force)–. NO
X In column 1, line 42, after 3, delete "psi" and insert –lbf–. NO
X In column 1, line 42, after 5, delete "psi" and insert –lbf–. NO
In column 3, line 54, delete "44" and insert –22–. OK
In column 4, line 37, delete "121". OK
In column 6, line 34, delete "roller" and insert –roller segments–. OK
In column 6, line 51, after "inserted" insert –under–. OK
In column 6, line 58, delete "rollers" and insert –roller segments–. OK
In column 6, line 65, delete "121" and insert –21–. OK
In column 8, claim 1, line 28, after "mounted on said housing" insert –,–. OK
In column 8, claim 1, line 32, delete "operating" and insert –operates–. OK
X In column 8, claim 3, line 45, delete "psi" and insert –pounds force–. NO
In column 8, claim 4, line 48, delete "complimentary" and insert –complementary–. OK

MAILING ADDRESS OF SENDER (Please do not use customer number

Jansson Shupe & Munger Ltd.
245 Main Street
Racine, WI 53403
262/632-6900

PATENT NO. 6,032,898

No. of additional copies

P15/REV03

11/19/2008 09:35 FAX 262 632 2257 JANSSON SHUPE ET AL 015

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RONALD ZIBELLI
XEROX CORPORATION
XEROX SQUARE 20A
ROCHESTER NY 14644

COPY MAILED

SEP 2 4 2008

In re Patent of	:	
Smith et al.	:	
Application Number: 08/705488	:	CORRECTED DECISION
Filing or 371(c) Date: 08/29/1996	:	ON PETITION
Patent Number: 6124372	:	
Issue Date: 09/26/2000	:	
Attorney Docket Number: D/95635Q2	:	

This is a decision on the "Petition Under 37 C.F.R. § 1.182 to Correct the Record Regarding a Terminal Disclaimer," filed June 10, 2008.

The petition is **granted** to the extent indicated.

Applicant files the present petition to correct the record to reflect that a portion of the Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection, dated November 6, 1998, relating to U.S. Patent Application No. 08/760,761..., filed August 29, 1996, is of no effect and entering Patentee's new terminal disclaimer.

The USPTO will not grant a request to withdraw or amend a recorded terminal disclaimer in an issued patent on the grounds that the rules of practice and 35 USC 253 do not include a mechanism for withdrawal or amendment of such a terminal disclaimer. See MPEP 1490; Bayer AG v. Carlsbad Technology Inc., 298 F.3d 1377, 64 USPQ2d 1045, 1048-49 (CAFC 2002). As such, the original terminal disclaimer unfortunately cannot be "corrected" as petitioner requests. Nevertheless, as the newly filed, corrective Terminal Disclaimer is regular in form and is accompanied by the requisite fee, it is accepted, placed in this file, and thus has been recorded against the instant patent, as petitioner requests.

The patent file is being returned to Files Repository.

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

Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination	
08/705488			

Document Code - DISQ	Internal Document – DO NOT MAIL

TERMINAL DISCLAIMER	☒ APPROVED	☐ DISAPPROVED
Date Filed : 6-10-08	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by:
Petitions

Patent Application
Attorney Docket No.
D/95635Q2

Assistant Commissioner for Patents
Washington, D.C. 20231

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER PENDING APPLICATION(S)

In re Application of: **Smith et al.**

Application No.: **08/705,488** Group Art Unit: **1711**
Filed: **8/29/1996** Examiner: **S. Berman**
For: **IMPROVED HIGH PERFORMANCE POLYMER COMPOSITIONS HAVING PHOTOSENSITIVITY-IMPARTING SUBSTITUENTS AND THERMAL SENSITIVITY-IMPARTING SUBSTITUENTS**

The owner, Xerox Corporation of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending Application(s) Number(s) **08/760,761 AND 08/705,372**, filed on **8/29/1996**.
The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patents granted on such application(s) are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

☒ The undersigned is an attorney or agent of record.

Signature
Judith L. Byorick
Typed or printed name
32,606
Registration No.
716/423-4564
Telephone No.

11/6/1998
Date

☒ Please charge $110 to Deposit Account No. 24-0025 for the terminal disclaimer fee under 37 CFR 1.20(d). (An additional copy of this paper is enclosed.)

DOCKETED - MAM

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)
5873823	1999-02-23	08706478	1996-09-04	105244-2 KGB

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	/Kurt G. Briscoe/	Date (YYYY-MM-DD)	2007-12-19
Name	Kurt G. Briscoe	Registration Number	33141

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
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In re Patent No. 5873823
Issue Date: February 23,1999
Application No. 08706478
Filed: September 4,1996
Attorney Docket No. BASE-TEN-213

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

This is a decision on the electronic petition, filed December 19,2007 ,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 19,2007. 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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MCKENNA LONG & ALDRIDGE, LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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FEB 08 2007

OFFICE OF PETITIONS

In re Application of :
Hill, Jacques R. Jr. :
Patent No. 5,790,096 : ON PETITION
Application No. 08/707,338 :
Filed: September 3, 1996 :
Issued: August 4, 1998
Attorney Docket No. 8736.133.00

This is a decision on the petition under 37 CFR 1.378(c), filed November 9, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued August 4, 1998. The last day of the grace period for paying the 7.5-year maintenance fee was August 4, 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).

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.

The patent file is being forwarded to Files Repository.

Liana Walsh
Petitions Examiner
Office of Petitions

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)
5759200	1998-06-02	08707562	1996-09-04	FEN021.227788 (RADIANCY)

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	/whdippert/	Date (YYYY-MM-DD)	2006-11-10
Name	William H. Dippert	Registration Number	26723

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
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In re Patent No. 5759200
Issue Date: June 2,1998
Application No. 08707562
Filed: September 4,1996
Attorney Docket No. 847/1

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 25

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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OFFICE OF PETITIONS

In re Application of
Robert O. Becker et al.
Application No. 08/707,779
Filed: September 3, 1996
Attorney Docket No. 96-1256
Title: MULTILAYER WOUND DRESSING

DECISION ON PETITION
UNDER 37 C.F.R. §1.182

This is in response to the petition filed on November 10, 2003, under 37 C.F.R. §1.182, requesting the withdrawal of a terminal disclaimer.

On November 22, 1999, petitioner submitted a terminal disclaimer to overcome a nonstatutory double patenting rejection over U.S. Patent No. 5,814,094 in a final Office action mailed August 18, 1999. Petitioner has since filed an amendment on June 4, 2002, and submits that the terminal disclaimer is no longer necessary.

With the instant petition, Petitioner has submitted the petition fee. The Examiner has reviewed petitioner's request, and has determined that the previously filed terminal disclaimer should be withdrawn.

As such, the petition is **GRANTED**.

The previously filed terminal disclaimer is hereby **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 for further processing.

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

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

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

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OFFICE OF PETITIONS

In re Patent No. 7,005,556
Issue Date: February 28, 2006
Application No. 08/707,779
Filed: September 3, 1996
Attorney Docket No. 60200.0024USIL

ON PETITION

This is a decision on the petition filed February 23, 2006, requesting withdrawal of the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for decision within sufficient time to avert issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(l).

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

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
5,835,986	1998-11-10	08/708,258	1996-09-06	P-2945

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	/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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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. 5835986
Issue Date: November 10,1998
Application No. 08708258
Filed: September 6,1996
Attorney Docket No. P-2945

:
: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.

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)
5868881	1999-02-09	08708330	1996-09-04	30610.13

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	/dapizarro/	Date (YYYY-MM-DD)	2007-08-21
Name	Derrick A. Pizarro	Registration Number	52126

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. 5868881
Issue Date: February 9,1999
Application No. 08708330
Filed: September 4,1996
Attorney Docket No. P-01333

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

This is a decision on the electronic petition, filed August 22,2007 ,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 22,2007 . 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. 34

WILLIAM C TRITT
RENNER OTTO BOISELLE & SKLAR PLL
1621 EUCLID AVENUE 19TH FLOOR
CLEVELAND OHIO 44115

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OFFICE OF PETITIONS

In re Application of
Schnur et al.
Application No. 08/708,907
Filed: September 5, 1996
Attorney Docket No. 2665-02

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a) filed March 26, 2002, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment.

The petition is **granted**.

Since the holding of abandonment may be withdrawn under the provisions of 37 CFR 1.181, the fees for a petition under 37 CFR 1.137 are not necessary and will be credited to counsel's deposit account. A withdrawal of a holding of abandonment is a recognition that the application was never abandoned in the first place.

The showing establishes that the reply to the Office action of May 17, 2001, was timely filed within the meaning of 37 CFR 1.8 as it contained an executed certificate of mailing dated November 19, 2001, along with a petition and fee for a three month extension of time. Accordingly the mail delay is immaterial, and the Notice of Abandonment was unfortunately mailed before the reply was received at the USPTO. The Notice of Abandonment of December 4, 2001, is vacated as mailed in error. While the office action of March 11, 2002, did not clarify that the holding of abandonment was withdrawn, that action was properly issued and the period for reply continues to run.

This application is being forwarded to TC AU 1764 to await any reply to the outstanding Office action.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 305-1830.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte PHILIP D. COOK

MAILED

JAN 16 2003

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Appeal No. 2001-0564
Application No. 08/709,160

ON BRIEF

Before WINTERS, WILLIAM F. SMITH, and GRIMES, Administrative Patent Judges.

Per curiam.

DECISION ON APPEAL

This appeal was taken from the examiner's decision rejecting claims 1 through 25, which are all the claims pending in the application.

The Invention

The invention relates to a synthetic process for preparing mixtures of compounds having particular structural sequences. By practicing the claimed process, a person

having ordinary skill may produce mixtures in which each compound in the mixture possesses a "fixed-fixed-variable" sequence. Claim 1, which is illustrative of the subject matter on appeal, reads as follows:

1. A synthetic process comprising the steps of:

providing a first chemical compound having a first functional group and a second functional group;

placing a blocking group on said first functional group;

reacting said second functional group with a first reagent pool comprising at least four different chemical compounds, thereby forming a first mixture of adducts having covalent bonds between said second functional group and said chemical compounds of said first reagent pool;

deblocking said first functional group, thereby forming a first mixture of deblocked compounds;

reacting at least a portion of said first mixture of deblocked compounds with a first reagent consisting essentially of a second chemical compound, thereby forming a combination of products having covalent bonds between said first functional group and said second chemical compound.

The References

In rejecting all of the appealed claims under 35 U.S.C. §§ 102(b) or 103(a), the examiner relies on the following prior art references:

Rutter et al. (Rutter)	5,225,533	July 6, 1993
Ellman	5,288,514	Feb., 22, 1994

Greene, Protective Groups in Organic Synthesis, p. vii (John Wiley & Sons, Inc. (1981))

Carey et al. (Carey), Advanced Organic Chemistry, 3rd ed., pp. 677-678 (Plenum Press, New York (1990))

Furka et al. (Furka), "General Method for Rapid Synthesis of Multicomponent Peptide Mixtures," Int'l J. Peptide Protein Res., Vol. 37, No. 6, pp. 487-493 (1991)

Hirschmann et al. (Hirschmann 1992), "Nonpeptidal Peptidomimetics With a Beta-D-Glucose Scaffolding. A Partial Somatostatin Antagonist Bearing a Close Structural Relationship to a Potent, Selective Substance P Antagonist," J. Am. Chem. Soc., Vol. 114, pp. 9217-9218 (1992)

Hirschmann et al. (Hirschmann 1993), "The Versatile Steroid Nucleus: Design and Synthesis of a Peptidomimetic Employing this Novel Scaffold," Tetrahedron, Vol. 49, No. 17, pp. 3665-3676 (1993)

The Rejections

Claims 1, 3, and 19 stand rejected under 35 U.S.C. § 102(b) as anticipated by Rutter.

Claims 1 and 3 through 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Ellman and Rutter, taken with Carey or Greene.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Rutter and Furka.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Ellman and Rutter, taken with Carey or Greene, and further considered in view of Furka.

Claims 20 through 25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Ellman and Rutter, taken with Carey or Greene, and further considered in view of the Hirschmann references.

Deliberations

Our deliberations in this matter have included evaluation and review of the following materials: (1) the instant specification, including Figures 1 through 15 and all of the claims on appeal; (2) applicant's Appeal Brief and the Reply Brief; (3) the Examiner's Answer; and (4) the above-cited prior art references.

On consideration of the record, including the above-listed materials, we reverse each of the examiner's prior art rejections.

The Examiner's Rejections

On this record, we are constrained to reverse the examiner's § 102 and § 103 rejections essentially for the reasons set forth in applicant's Appeal Brief and Reply Brief. We add the following comments for emphasis.

In setting forth each prior art rejection, the examiner relies heavily on Rutter. Part of that reliance is based on Rutter's description or characterization of "the Houghten method" (Examiner's Answer, pages 8, 9, 12, and 13). The examiner does not cite or rely directly on the Houghten publication, referenced by Rutter at column 1, lines 59 and 60.[1] Rather, the examiner relies on Rutter's description or characterization of Houghten's method running from column 1, line 58 through column 2, line 14. But that description or characterization is too cryptic. In our judgment, Rutter's description

---

[1] Houghten, Proc. Nat'l Acad. Sci. USA, Vol. 82, pp. 5131-5135 (1985)

of the Houghten method is insufficient to support a finding of anticipation or a conclusion of obviousness of applicant's claimed process.

The examiner also relies on Rutter's description of a "modified synthesis of mixtures" at column 9, line 45 through column 10, line 37 (Examiner's Answer, pages 8, 10, and 11). However, having carefully reviewed that portion of the Rutter patent, we agree with applicant that Rutter's "modified approach" does not anticipate or suggest the claimed process of preparing mixtures of compounds where each compound in the mixture possesses a "fixed-fixed-variable" sequence. Nor do any of the remaining prior art references make up for the deficiencies of Rutter.

For reasons succinctly set forth in the Appeal Brief and Reply Brief, amplified above, we reverse the examiner's rejections under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a).

Other Issues

On return of this application to the examining corps, we recommend that the examiner reevaluate the breadth of applicant's claims in light of the description and enablement requirements of 35 U.S.C. § 112, first paragraph.

Claim 1 is directed to a combinatorial synthetic process. The claim language is extremely broad. The claim appears to read on any combinatorial synthesis process that starts with any chemical compound with at least two functional groups, and includes the steps of blocking a functional group, reacting another functional group with a mixture of at least four different compounds, and deblocking and uniformly reacting

the first functional group. Due to the "comprising" language, the claim of course encompasses processes comprising these steps and any others. In addition, the recited steps need not even be carried out in the recited order. See Interactive Gift Express, Inc. v. Compuserve Inc., 231 F.3d 859, 875, 56 USPQ2d 1647, 1661 (Fed. Cir. 2000) ("Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require one.").

The claim language therefore is extremely broad. The relevant question here, though, is whether the claims are too broad—i.e., are they so broad that they are unpatentable?

Broad claims can be unpatentable under 35 U.S.C. §§ 102 or 103 if they read on embodiments that are disclosed in or suggested by the prior art. The examiner, however, bears the burden of showing prima facie unpatentability. With respect to sections 102 and 103, that means showing that the prior art either identically discloses the claimed invention, or would have made it obvious to those of skill in the art. See In re Wilder, 429 F.2d 447, 450, 166 USPQ 545, 548 (CCPA 1970) ("[I]n an ex parte proceeding to obtain a patent, . . . the Patent Office has the initial burden of coming forward with some sort of evidence tending to disprove novelty."); In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) ("In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness.").

Here, the examiner's rejections do not meet the requirements of sections 102 or 103. Having carefully reviewed the references the examiner relies on, and his

explanation of the rejections, we cannot conclude that the cited prior art identically discloses or would have suggested the process of claim 1. Therefore, the examiner's rejections must be reversed.

It should be noted, however, that claims can be unpatentably broad even if they do not read on the prior art. Claims that are broader than the enabling scope of the disclosure, or broader than the invention described in the specification, can be unpatentable under the first paragraph of 35 U.S.C. § 112.

"It is well settled that patent applicants are not required to disclose every species encompassed by their claims, even in an unpredictable art. . . . However, there must be sufficient disclosure, either through illustrative examples or terminology, to teach those of ordinary skill in the art how to make and how to use the invention as broadly as it is claimed." In re Vaeck, 947 F.2d 488, 496, 20 USPQ2d 1438, 1445 (Fed. Cir. 1991) (footnote omitted). "The scope of the claims must be less than or equal to the scope of the enablement. The scope of enablement, in turn, is that which is disclosed in the specification plus the scope of what would be known to one of ordinary skill without undue experimentation." National Recovery Technols. Inc. v. Magnetic Separation Sys., Inc., 166 F.3d 1228, 1232, 49 USPQ2d 1671, 1675-76 (Fed Cir. 1999).

"To fulfill the written description requirement, the patent specification 'must clearly allow persons of ordinary skill in the art to recognize that [the applicant] invented what is claimed.'" Gentry Gallery, Inc. v. Berkline Corp., 134 F.3d 1473, 1479, 45 USPQ2d 1498, 1502-03 (Fed. Cir. 1998). "[T]he purpose of the description requirement is 'to ensure that the inventor had possession, as of the filing date of the application

relied on, of the specific subject matter later claimed by him.'" Hyatt v. Boone, 146 F.3d 1348, 1354, 47 USPQ2d 1128, 1132 (Fed. Cir. 1998) (quoting In re Edwards, 568 F2d 1349, 1351-52, 196 USPQ 465, 467 (CCPA 1978)).

Claim 1 is an original claim, but that does not necessarily mean that it has been adequately described. See Enzo Biochem, Inc. v. Gen-Probe Inc., 296 F.3d 1316, 1329, 63 USPQ2d 1609, 1616 (Fed. Cir. 2002): "If a purported description of an invention does not meet the requirements of the statute, the fact that it appears as an original claim or in the specification does not save it. A claim does not become more descriptive by its repetition, or its longevity."

The description and guidance provided by the instant specification appear to be much more limited than the sweeping breadth of claim 1. The disclosure focuses narrowly on "cyclophane-like" macrocyclic compounds. The specification's "Summary of the Invention" states that

> [t]he present invention provides novel cyclophane-like compounds and macrocyclic compounds comprising cyclic structures that are interrupted with at least one aromatic, alicyclic or heterocyclic ring system having two bridgehead atoms, each bridgehead atom being connected to at least one bridge containing at least two nitrogenous moieties bearing chemical functional groups.
>
> [The specification then provides three-and-a-half pages of exemplary functional groups, omitted here.]
>
> Combinatorial synthetic strategies offer the potential to generate and screen libraries comprising extremely large numbers of compounds and identify individual molecules with desired properties. In certain embodiments of the invention, cyclophane-like compounds are provided that comprise part of a library of such compounds bearing varied functional groups. Further, cyclophane-like compounds are provided bearing at least three different chemical functional groups thereon.

. . .

> Methods of the present invention are useful for generating a library of macromolecules. These methods comprise selecting a macromolecule having at least one ring system, one bridge for each ring system connected to at least one bridgehead atom thereof, and having a plurality of nitrogenous moieties located within the macromolecule. These methods further comprise selection and reaction of a plurality of chemical functional group reactants for introduction of chemical functional groups on the nitrogenous moieties.

Pages 7-12.

The specification also states that "[a]s noted above, the macrocyclic compounds of the invention can be prepared having either preselected sequences or sequences determined via combinatorialization strategies. One useful combinatorial strategy is a 'fix last' strategy noted in certain of the examples." Page 30. The specification describes Figures 2 through 5 as showing "the combinatorialization of a macromolecule having four nitrogenous sites coupled with four chemical functional groups to achieve an overall complexity of 256 (4^4) compounds. A 'fix last' deconvolution strategy is utilized." Page 41. In the process shown, "the procedure includes as its last step, 'fixing' the chemical functional group on the nitrogenous moiety at site 4." Id., page 42.

The specification discloses that "[t]he chemical functional groups on the macrocyclic compounds of the invention provide for binding of the compounds to proteins, including enzymes, nucleic acids, lipids and other biological targets." Page 2. The specification states that the compounds are potentially useful as inhibitors of viruses, bacteria, enzymes, and various protein/protein interactions. See id. The specification does not describe methods of making or using any specific compounds other than the macrocyclic compounds that are the focus of the disclosure.

It appears to us, therefore, that claim 1 is vastly broader than the disclosure provided in the specification. On this record, however, the examiner has not rejected any of the claims for nonenablement or lack of written description. Therefore, the record presents no basis for concluding that the claims do not comply with the first paragraph of 35 U.S.C. § 112. See In re Wright, 999 F.2d 1557, 1561-62, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993) ("[T]he PTO bears an initial burden of setting forth a reasonable explanation as to why it believes that the scope of protection provided by [the] claim is not adequately enabled."); In re Alton, 76 F.3d 1168, 1175, 37 USPQ2d 1578, 1583 (Fed. Cir. 1996) (The examiner "'bears the initial burden . . . of presenting a prima facie case of unpatentability.' . . . Insofar as the written description requirement is concerned, that burden is discharged by 'presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims.'").

Adequacy of description is a question of fact. See Alton, 76 F.3d at 1174, 37 USPQ2d at 1583 ("[W]hether a specification provides an adequate written description of the subject matter of the claims is an issue of fact."). Enablement, although a legal conclusion, is based on a number of factual considerations. See In re Wands, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988). Given the fact-specific nature of both § 112, first paragraph, inquiries, we are not in the best position to decide whether the claims are supported by an adequate written description and an enabling disclosure. The examiner is more familiar with the relevant technology and is in a better position to make these determinations. We urge the examiner to thoroughly consider,

in light of the discussion and cases cited herein, whether the instant claims are adequately described and are enabled throughout their full scope.

The examiner's decision, rejecting claims 1 through 25, is reversed.

REVERSED

Sherman D. Winters)
Administrative Patent Judge)
)
)
William F. Smith) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
)
Eric Grimes) INTERFERENCES
Administrative Patent Judge)

Woodcock, Washburn, Kurtz,
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dem

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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)
5684232	1997-11-04	08709231	1996-09-03	

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	/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
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In re Patent No. 5684232
Issue Date: November 4,1997
Application No. 08709231
Filed: September 3,1996
Attorney Docket No. MSV02696BF

:
: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 PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 47

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JAN 16 2003

OFFICE OF PETITIONS

In re Application of :
GREEN :
Application No. 08/709,930 : ON PETITION
Filed: September 9, 1996 :
Attorney Docket No. 000287-00482 :

This is a decision on the petition filed December 2, 2002, which requests under 37 CFR 1.182 that the record be clarified regarding the real party in interest.

The petition is granted.

Petitioner asserts that, while SRI International (SRI) is, by an assignment of the parent case recorded in the records of the USPTO, the assignee of the entire right title and interest in the above-identified application, several papers in the associated *inter partes* interference, No. 104,643, have identified the Green real party in interest as Intuitive Surgical. Petitioner seeks clarification as to its status as "**the** real party in interest" and that Intuitive Surgical, Inc., as the exclusive licensee may be "**a** real party in interest." Petitioner is correct.

Initially, the papers referred to in the petition are located in the file wrapper for the above-noted interference and, as such, are not part of this file, except for their introduction as exhibits to the petition. Petitioner may wish to seek clarification of this same issue in the above-noted Interference file, which is within the jurisdiction of the Board of Patent Appeals and interferences (BPAI).

The term "real party in interest" was added to the rules pertaining to both *ex parte* appeals and *inter partes* interferences in the "Miscellaneous Changes in Patent Practice" rulemaking, effective April 21, 1995 and published at 60 *Fed. Reg.* 14488 (Mar. 17, 1995). The purpose of this particular change was to (1) permit members of the BPAI to comply with applicable ethics regulations in which any member might have an interest in any party so identified, and (2) ensure consistency in decisions in related cases. See 60 F.R. 14499. Manifestly that very limited change did not extend

to the rules pertaining to ownership of an application, nor as to those pertaining to who may control the prosecution of an application.

An assignment of the entire right, title, and interest, passes both legal and equitable title. See, Wende v. Horine, 191 F. 620, 621 (C.C.N.D. Ill. 1911). The recorded assignment of the parent application carries to the continuing application. See MPEP 306. SRI, as the assignee of the entire interest, is free to deal with this application as SRI wills. See Garfield v. Western Electric Co., 298 F. 659 (S.D.N.Y. 1924). Only the owner of the *entire* interest in an application has the sole right to control prosecution of an application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The scope of the assignee's powers is further amplified in MPEP 324.

The procedures set forth in the regulations (e.g., 37 CFR §§ 1.36, 3.71 and 3.73(b)) serve to assure that papers filed with the PTO in an application or patent are submitted on behalf of the owner(s) of the *entire* interest in the application or patent. See Goldstein, 16 USPQ2d at 1964. Thus, SRI, and only SRI, as the assignee of the entire interest may do with this application as SRI pleases. While Intuitive Surgical, Inc., may be the exclusive licensee, the rules of practice simply do not recognize an exclusive licensee or permit an exclusive licensee to have any control whatsoever in the prosecution of this or any other application The entire ownership interest, and the entire and sole right to control the prosection of this application resides in SRI.

Any confusion that the USPTO may have caused SRI is sincerely regretted.

This application is being forwarded to Technology Center AU 2125.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

JAN 16 2008

Patent Dept.
Intuitive Surgical, Inc.
1266 Kifer Road
Sunnyvale, CA 94086

In re: Patent Term Extension
Application for
U.S. Patent No. 5,808,665

FINAL DECISION REGARDING PATENT TERM EXTENSION APPLICATION UNDER 35 U.S.C. § 156 FOR U.S. PATENT NO. 5,808,665

This is in response to the application for extension of the term of U.S. Patent No. 5,808,665 ("the '665 patent") filed under 35 U.S.C. § 156 in the United States Patent and Trademark Office ("USPTO") on September 11, 2000 ("the PTE Application), the Request for reconsideration filed on January 9, 2002 ("the Request"), and the Petition to the director for questions not specifically provided for under 37 CFR 1.182 filed on April 19, 2004. The PTE Application was filed by Intuitive Surgical ("Applicant"), the exclusive licensee of the '665 patent and marketing applicant of the da Vinci™ System. Extension was sought based upon the premarket review of the da Vinci™ System under sections 515 and 510(k) of the Federal Food Drug and Cosmetic Act ("FFDCA"). Because the Food and Drug Administration ("FDA") and the USPTO have determined that no application under 515 of the FFDCA was approved for the da Vinci™ System (endoscopic instrument control system and endoscopic instruments), Applicant's request for extension of the patent term of the '665 patent under 35 U.S.C. 156(d)(1) is **DENIED** and its request for reconsideration is **DENIED**. Additionally, the petition to the director under 37 C.F.R. § 1.182 is **MOOT** in view of this decision.

A. Factual Background

On January 17, 1999, as stated at page 5 of the PTE Application, Applicant submitted to the Food and Drug Administration ("FDA") an application (#K990144) under section 510(k) of the FFDCA (21 U.S.C. § 360(k)) seeking clearance of its da Vinci™ System.

During the course of the FDA's review of the 510(k) application submitted January 17, 1999, it was decided that a pre-market approval application ("PMA") under section 515 of the FFDCA would be required. See, page 2 of a letter dated July 23, 2007, sent by the FDA to the USPTO.

On November 18, 1999, as stated at page 5 of the PTE Application, Applicant submitted to the FDA a complete PMA application (#P990079) under section 515 of the FFDCA for review of the da Vinci™ System. The FDA accepted the PMA application for filing on November 29, 1999.

During the course of the FDA's review of the PMA, the FDA "decided that the appropriate path to market for [the da Vinci™ System] should be through a 510(k) application

rather than a PMA." See, page 2 of the July 23, 2007, letter. The FDA consequently closed the PMA application on June 20, 2000, and reopened the 510(k) application. See, id.

On July 11, 2000, as stated at page 2 of the July 23, 2007, letter, the da Vinci™ System was cleared for marketing under section 510(k) of the FFDCA.

On September 11, 2000, Applicant filed the PTE Application with the USPTO to extend the term of the '665 patent. In the PTE Application, Applicant states:

> within the plain language of 35 U.S.C. § 156(a)(4) and § 156(g)(3)(B), a regulatory review period begins at the initiation of human clinical trials, and ends on approval under the "Act," i.e. the FD&C Act, which includes both sections 515 and 510(k) of Chapter 5. While the calculation of the regulatory review period requires that an application be submitted under section 515, the statute thus clearly encompasses situations (such as the present case) where approval is eventually granted under another section of the FD&C Act.

On November 27, 2000, the USPTO requested FDA's assistance in determining the '665 patent's eligibility for patent term extension. The November 27, 2000, letter notes:

> [t]he application for patent term extension raises the issue of whether the application was subject to a regulatory review period under 35 U.S.C. § 156(g) because the approval for commercial marketing or use is said to have been under § 510(k) of the [FFDCA], which is not the same as an approval under § 515 of said Act.

In a letter dated October 2, 2001, the FDA advises the USPTO that the da Vinci™ System was subject to a regulatory review period before its commercial marketing or use, as required under 35 U.S.C. § 156(a)(4).

On November 14, 2001, the USPTO mailed a Notice of Final Determination of Ineligibility in which the USPTO states that the '665 patent is ineligible for patent term extension under 35 U.S.C. § 156. In particular, the Notice states:

> The medical device da VINCI™ system underwent regulatory review under Section 510(k) of the [FFDCA]. For regulatory review of a medical device claimed by a patent to give rise to eligibility for patent term extension, the regulatory review must have been under Section 515 of the FFDCA. See 35 U.S.C. § 156(g)(3)(A). Since the regulatory review of VINCI™ system was under Section 510(k), not Section 515, the patent is not eligible for patent term extension. See Manual of Patent Examining Procedure, Section 2751, page 2700-14, Eighth edition (August 2001), citing In re Nitinol Medical Technologies Inc., 17 USPQ2d 1492, 1492-1493 (Comm'r Pat. & Tm. 1990). See also Baxter Diagnostics v. AVL Scientific Corp., 798 F.Supp. 612, 619-620, 25 USPQ2d

1428, 1434 (1992) (Congress intended only Class III medical devices to be eligible for patent term extension).

On January 9, 2002, Applicant filed a Request for Reconsideration for Patent Term Extension Under 35 U.S.C. § 156. The Request states at page 2 that "[t]he regulatory review of the da Vinci™ System was conducted under both sections 515 and 510(k) of Chapter 5 of the FFDCA, with approval eventually being granted under 510(k)." (Emphasis in the original.) The Request further states at page 2 that, "[a]s the da Vinci™ System was subjected to regulatory review under section 515, Applicants are entitled to a patent term extension." The Request also states at page 2 that "within the plain language of 35 U.S.C. § 156(a)(4) and § 156(g)(3)(B), a regulatory review period begins at the initiation of human clinical trials and ends on approval under the 'Act,' i.e. the FFDCA, which includes both sections 515 and 510(k) of Chapter 5."

In a letter dated April 9, 2002, the USPTO requests that the FDA comment on the Request for Reconsideration. The April 9, 2002, letter makes note of Applicant's argument that the regulatory review period of the product was as required by 35 U.S.C. § 156(g)(3)(B), because regulatory review was conducted under Section 515 of the FFDCA, and the subsequent approval under the Act, albeit under section 510(k) of the Act, did not diminish the patent's eligibility for patent term extension.

On April 19, 2004, Applicant filed a Petition to Director for Questions Not Specifically Provided for Under 37 CFR 1.182. Applicant states in the Petition that they have not received any further official correspondence from the USPTO or FDA regarding the Request, subsequent to the USPTO's letter of April 9, 2002, to the FDA.

In the July 23, 2007, letter sent by the FDA to the USPTO, the FDA responds to the USPTO's April 9, 2002, letter. The July 23, 2007, letter states at page 2 that the determination in the FDA's October 2, 2001, letter that the da Vinci™ System was subject to a regulatory review period before its commercial marketing or use, as required under 35 U.S.C. § 156(a)(4), "was in error." The July 23, 2007, letter further states at page 2 that, "[a]lthough the da VINCI system was reviewed for a time under § 515 of the FFDCA, it was not approved under § 515." Also at page 2, the July 23, 2007, letter concludes that, "[b]ecause [the da Vinci™ System] was not approved under § 515 of the FFDCA, it was not subject to a regulatory review period as defined under 35 U.S.C. § 156(g)(3)(B)(ii), and it is ineligible for patent term extension."

B. Decision

1. 35 U.S.C. § 156 Requires a Medical Device to Have Been Subject to a Regulatory Review Period Before its Commercial Marketing or Use, Defines the Regulatory Review Period for the Medical Device, and Requires that an Application for the Medical Device Submitted Under Section 515 of the FFDCA be Approved

35 U.S.C. § 156(a) provides (in part) that:

> The term of a patent which claims a product ... shall be extended in accordance with this section ... if –
>
> ... (4) the product has been subject to a regulatory review period before its commercial marketing or use.

For medical devices, the term "regulatory review period" is defined in § 156(g)(3)(B) as follows:

> (B) The regulatory review period for a medical device is the sum of –
>
> (i) the period beginning on the date a clinical investigation on humans involving the device was begun and ending on the date an application was initially submitted with respect to the device under section 515, and
>
> (ii) the period beginning on the date an application was initially submitted with respect to the device under section 515 and ending on the date **such application was approved** under such Act or the period beginning on the date a notice of completion of a product development protocol was initially submitted under section 515(f)(5) and ending on the date the protocol was declared completed under section 515(f)(6).

(Emphasis added).

The phrase "such application" in 35 U.S.C. § 156(g)(3)(B)(ii) is clear and unambiguous. It refers to the prior recitation in § 156(g)(3)(B)(ii) of the "application [that] was initially submitted with respect to the device under section 515" of the FFDCA. The definition of "regulatory review period" in § 156(g)(3)(B) thus requires that an application for a medical device be submitted under section 515 of the FFDCA and also that the application under section 515 be approved.

Here, an application under section 515 of the FFDCA was not approved for the da Vinci™ System. As stated in the FDA's July 23, 2007, letter, the PMA application submitted under section 515 of the FFDCA for review of the da Vinci™ System was closed on June 20, 2000. Because an application under section 515 of the FFDCA was not approved for the da Vinci™ System, Applicant fails to comply with 35 U.S.C. § 156(a)(4). Therefore, the '665 patent is **ineligible** for patent term extension under 35 U.S.C. § 156.

2. Applicant's Argument that the Da Vinci™ System is Eligible for Patent Term Extension Because "Regulatory Review ... was Conducted under both Sections 515 and 510(k) of Chapter 5 of the FFDCA" is Unpersuasive

At page 2 of the PTE Application, Applicant states that "[t]he regulatory review of the da Vinci™ System was conducted under both sections 515 and 510(k) of Chapter 5 of the FFDCA, with approval eventually being granted under 510(k)." (Emphasis in the original). Applicant thereafter concludes on page 2 of the PTE Application that, "[a]s the da Vinci™ System was subjected to regulatory review under section 515 of the FFDCA, Applicants are entitled to a patent term extension."

However, for the reasons stated earlier herein, it is not enough that a PMA application for the da Vinci™ System was submitted and reviewed under section 515 of the FFDCA for the '665 patent to be eligible for patent term extension pursuant to 35 U.S.C. § 156. The definition of "regulatory review period" in § 156(g)(3)(B) requires that an application for a medical device be submitted under section 515 and also that the application submitted under section 515 be approved. An application under section 515 of the FFDCA was not approved for the da Vinci™ System. The PMA application submitted under section 515 of the FFDCA for review of the da Vinci™ System was closed on June 20, 2000. Because an application under section 515 of the FFDCA was not approved for the da Vinci™ System, Applicant fails to comply with 35 U.S.C. § 156(a)(4). Therefore, the '665 patent is **ineligible** for patent term extension under 35 U.S.C. § 156.

3. Applicant's Argument that, "Within the Plain Language of 35 U.S.C. § 156(a)(4) and § 156(g)(3)(B), a Regulatory Review Period begins at the Initiation of Human Clinical Trials and ends on Approval Under the 'Act'" is Unpersuasive

At page 2 of the PTE Application, Applicant reproduces 35 U.S.C. § 156(g)(3)(B)(i) and (ii) and emphasizes the phrase "ending on the date such application was approved under such Act" recited in § 156(g)(3)(B)(ii). In view of the emphasized phrase, Applicant states at page 2 of the PTE Application that, "[t]herefore, within the plain language of 35 U.S.C. § 156(a)(4) and § 156(g)(3)(B), a regulatory review period begins at the initiation of human clinical trials and ends on approval under the 'Act,' i.e. the FFDCA, which includes both sections 515 and 510(k) of Chapter 5."

However, as stated earlier herein, the phrase "such application" in section 156(g)(3)(B)(ii) of Title 35 is clear and unambiguous. It refers to the prior recitation in § 156(g)(3)(B)(ii) of the "application [that] was initially submitted with respect to the device under section 515" of the FFDCA. The definition of "regulatory review period" in § 156(g)(3)(B) thus requires that an application for a medical device be submitted under section 515 of the FFDCA and also that the application under section 515 be approved. Because an application under section 515 was not approved for the da Vinci™ System, the '665 patent is ineligible for patent term extension under 35 U.S.C. § 156.

Further, even if, as Applicant states, a regulatory review period begins at the initiation of human clinical trials and ends on approval under the Act, i.e., the FFDCA, which includes both sections 515 and 510(k) of Chapter 5, there was no approval under the FFDCA of the da Vinci™ System. First, as stated at page 2 of the FDA's July 23, 2007, letter, the PMA application submitted under section 515 of the FFDCA for review of the da Vinci™ System was closed on June 20, 2000. Second, the FDA did not "approve" the 510(k) application #K990144. As stated at page 3 of the July 23, 2007, letter, "[p]remarket submissions under § 510(k) of the FFDCA are not *approved* by FDA (See 21 CFR 807.97)." (Emphasis in the original). As the FDA explains at page 2 of the July 23, 2007, letter:

> An FDA finding of substantial equivalence of the device to a legally marketed predicate device results in a classification for the device and clears it for commercial distribution. It does not mean that FDA approves the device.

Thus, contrary to the statement by Applicant at page 3 of the Request that "[o]n July 11, 2000, the FDA approved the 510(k) application #K990144," the FDA on July 11, 2000, "determined [the da Vinci™ System] to be substantially equivalent (for the indications for use stated in the labeling) to legally marketed predicate devices and cleared [it] for marketing under § 510(k) of the FFDCA." See, page 2 of the FDA's July 23, 2007, letter.

Therefore, there was no approval of the da Vinci™ System within the meaning of 35 U.S.C. § 156(g)(3)(B)(ii). Because Applicants have not complied with 35 U.S.C. 156(a)(4), the '665 patent is **ineligible** for patent term extension under 35 U.S.C. § 156.

4. Conclusion

For the reasons stated above, Applicant's request for extension of the patent term of the '665 patent is **DENIED**; Applicant's Request is **DENIED** and Applicant's Petition to the director for questions not specifically provided for under 37 CFR 1.182 is **MOOT**.

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) 273-7728

Telephone inquiries related to this determination should be directed to Raul Tamayo at (571) 272-7728. E-mail inquiries should be directed to Raul.Tamayo@uspto.gov.

Robert A. Clarke
Director
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

Re: da Vinci™ System
FDA Docket No.: 2001E-0095

Attention: Beverly Friedman

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)
5,656,948	1997-08-12	08/711,232	1996-09-09	PHLV1418-002

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	/Lance C. Venable/	Date (YYYY-MM-DD)	2009-12-17
Name	Lance C. Venable	Registration Number	41361

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. 5656948
Issue Date: August 12,1997
Application No. 08711232
Filed: September 9,1996
Attorney Docket No. 11050.0011

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

This is a decision on the electronic petition, filed December 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 December 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

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	: DAVID A. BERG	: DECISION ON REQUEST FOR
Patent Number	: 5779545	: RECALCULATION of PATENT
Issue Date	: 07/14/1998	: TERM ADJUSTMENT IN VIEW
Application No	: 08/711,847	: OF WYETH
Filed	: 09/10/1996	:
		:

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

JUN 28 2005

MCMR-JA (JOHN MORAN)
US ARMY MEDICAL RESEARCH
AND MATERIAL COMMAND
FORT DETRICK
FREDERICK, MD 21702-5012

In re Application of	:
Arthur A. Branstrom et al	:
Serial No.: 08/711,961	: PETITION DECISION
Filed: September 6, 1996	:
Attorney Docket No.: 38644-175286	:

This is in response to the petition under 37 CFR 1.181, filed May 23, 2005, for withdrawal of abandonment of the above identified application based on timely reply

A review of the file history shows that the Board of Patent Appeals and Interferences mailed a Decision on Appeal to applicants on December 22, 2003, which triggered a two month period within which applicants could take further action. Applicants filed a request for reconsideration of the decision on January 22, 2004. The Request for Rehearing was denied by decision mailed March 1, 2004, which restarted the period within which applicants could take further action. On April 2, 2004, the examiner mailed a Notice of Abandonment to applicants based on no further action having been taken. The Notice was mailed prematurely and applicants subsequently timely filed RCE papers on April 27, 2004. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded for entry of the RCE papers and then to the examiner for further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 703-308-3824 or by facsimile sent to the general Office facsimile number 571-273-8300.

Jasemine C. 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)
6134712	2000-10-24	08712887	1996-09-12	

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)	2010-05-28
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

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

In re Patent No. 6134712
Issue Date: October 24,2000
Application No. 08712887
Filed: September 12,1996
Attorney Docket No. F.4021-081

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

This is a decision on the electronic petition, filed May 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 May 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.

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)
6014381	2000-01-11	08713536	1996-09-13	

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

	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	//nojensen//	Date (YYYY-MM-DD)	2008-09-16
Name	Nathan O. Jensen	Registration Number	41460

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. 6014381
Issue Date: January 11,2000
Application No. 08713536
Filed: September 13,1996
Attorney Docket No. 080394.P021

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

This is a decision on the electronic petition, filed September 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 September 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 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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GARVEY SMITH NEHRBASS & NORTH, LLC
LAKEWAY 3, SUITE 3290
3838 NORTH CAUSEWAY BLVD.
METAIRIE LA 70002

MAILED

AUG 13 2009

OFFICE OF PETITIONS

In re Patent No. 5,784,808 :
Issued: July 28, 1998 : REQUEST FOR
Application No. 08/714,964 : INFORMATION
Filed: September 17, 1996 :
Attorney Docket No. AD9027US (99413.1) :

This is a request for information in response to the petition under 37 CFR 1.378(e), filed April 30, 2009, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(e) filed April 30, 2009.

The patent issued July 28, 1998. The 7.5 year maintenance fee could have been paid from July 28, 2005 to January 28, 2006, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from January 27, 2006, through July 28, 2006. Petitioner did not do so. Accordingly, the patent expired at midnight on July 28, 2006.

Petitioner is required to address the following points:

- It is noted that petitioner states that the docketing error that resulted in the failure to pay the 7.5 year maintenance fee occurred while attorney Richard Backus was responsible for paying the maintenance fee. It is further noted that Mr. Backus has indicated that he is not sure how the docketing error occurred. Thus, petitioner has not identified the cause of the error. Because Mr. Backus was charged with the responsibility of paying the 7.5 year maintenance fee, petitioner must establish that the actions, or inactions, of Mr. Backus unavoidably resulted in the 7.5-year maintenance fee not being paid. The statements as to Mr. Backus, and of Mr. Backus, do not establish that said delay was unavoidable. Petitioner states that the alleged failures of Mr. Backus' docketing system should not be imputed to the patentee. Petitioner is cautioned that it is well-settled legal precedence that, relative to petitions under 37 CFR 1.378(b), the actions, or inactions, of the duly appointed attorney are imputed to the client. Petitioner must, therefore, clarify under whose auspices the docketing error occurred. If, in fact, the docketing error occurred with Mr. Backus, petitioner must establish that the docketing error was the reason the 7.5-year maintenance fee was not paid and that said error was unavoidable.

- Petitioner is cautioned that there is a strong presumption that a docketing error cannot be considered unavoidable when the error was made by an attorney. If the error occurred under the clerical staff of Mr. Backus, petitioner must establish who that person was and how the docketing

error was unavoidable. Section 711.03(c)(2) of the Manual of Patent Examining Procedure, provides, in pertinent part that:

> In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).
>
> A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:
>
> (A) the error was the cause of the delay at issue;
>
> (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
>
> (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

A delay resulting from an error, such a docketing error, on the part of an employee in the performance of a clerical function may provide the basis for a showing of unavoidable delay. Such a showing should identify the specific error, the individual who made the error, and the business routine in place for performing the action which resulted in the error. The showing must establish that the individual who erred was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. The showing should include information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned task.

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

By mail:
Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition 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

GARVEY SMITH NEHRBASS & NORTH, LLC
LAKEWAY 3, SUITE 3290
3838 NORTH CAUSEWAY BLVD.
METAIRIE LA 70002

MAILED

MAR 23 2009

OFFICE OF PETITIONS

In re Patent No. 5,784,808
Issued: July 28, 1998
Application No. 08/714,964
Filed: September 17, 1996
Attorney Docket No. AD9027US (99413.1)

This is a decision on the petition under 37 CFR 1.378(b), filed March 4, 2009, to reinstate the above-cited patent.

The petition is **dismissed**.

The patent issued July 28, 1998. The 7.5 year maintenance fee could have been paid from July 28, 2005 to January 28, 2006, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from January 27, 2006, through July 28, 2006. Petitioner did not do so. Accordingly, the patent expired at midnight on July 28, 2006.

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.378(b).

Opinion

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

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.[1]

[1]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).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion Rule 36), 937 F.2d 623 (Fed Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d agencys' interpretation of a statute it administers is entitle to deference"); see also Chevron U.S.A. Inc, v. Natural Resources Defense Counsil, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute s silent or

However, "[t]he 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."[2] Nonawarness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.[3] The statute requires a "showing" by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.[4] The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.[5] Even if the Office were required to provide notice to

---

ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute."))

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409, 763, 7 U.S.P.Q.2d BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "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 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat 31, 32-33 (1887)).

[2]Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3]See Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness 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 action, 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.) (Emphasis added).

[4]Nonawarness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. *BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness 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.) (Emphasis added).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

[5]Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner's no timely-notice interpretation." Ray v. Comer, 1994 U.S. Dist.

applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.[6]

A reasonable and prudent person, aware of the existence of maintenance fees, would not rely on maintenance fee reminders or on memory to remind him or her when payments would fall due several years in the future. Instead, such an individual would implement a reliable and trustworthy tracking system to keep track of the relevant dates.[7] The individual would also take steps to ensure that the patent information was correctly entered into the tracking system.

Application of the unavoidable standard to the present facts

In the instant petition, petitioner argues that the above-cited patent should be reinstated because the delay in paying the 7.5-year maintenance fee was unavoidable due to docketing and clerical errors that occurred in the offices of Richard E. Backus, the attorney charged with the responsibility of paying the 7.5-year maintenance fee for the subject patent. Petitioner states that the due dates for the 7.-5 year and 11.5-year maintenance fee for the subject patent where some how deleted from Mr. Backus' docketing system—Mac Panorama Database and, therefore, no reminder notice that the 7.5-year maintenance fee was coming due was generated.

The petitioner's argument and statements have been considered, but are not persuasive as petitioner has not made the "showing" that is required to satisfy the requirements of 37 CFR 1.378(b). Section 2590 of the MPEP indicates that:

LEXIS 21478, 8-9 (1994), *aff'd on other grounds* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing Rydeen v. Quigg, 748 F. Supp. 900, 905 (1990), Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in Rydeen, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute." Id. at 3 (citing Rydeen v. Quigg, 748 F. Supp. at 906, Texaco v. Short, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. See MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. See Rydeen v. Quigg, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

[6]See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

[7] 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. Ray v. Lehman, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In Ray v. Lehman, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), supra, arguing that it 'creates a burden that goes well beyond what is reasonably prudent." We disagree, The PTOs' regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." Id.

> . . . an error in a docketing 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 fee.

Any renewed petition under 37 CFR 1.378(e) filed must provide the following, accordingly:

- Additional information regarding the MacPanorama Database docketing system and its use in the industry and why it is a reliable system.
- Explain the process used to enter petitioner's data into the MacPanorama Database system, more specifically, what data integrity and error checks were used in the process.
- Explain, in detail, the tests conducted to verify the completeness and reliability of the data entered into the database and provide statements from employees who were involved with the data entry.
- Explain how the data entry was accomplished and how the error may have occurred.

It is also noted that there appears to be some sort of the clerical error in the alleged deletion of the due dates for the maintenance fees for the subject patent. Further to this point, Section 711.03(c)(2) provides, in pertinent part that:

> In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).
>
> A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:
>
> (A) the error was the cause of the delay at issue;
>
> (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
>
> (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

A successful petition under 37 CFR 1.378(b) under the circumstances presented would require petitioner to identify the employee to whom the clerical error may be attributed and detail the training and experience of the employee so as demonstrate that reliance on the employee represented the exercise of due care. Petitioner offers only sparse details as to the business routine in place for ensuring accurate data entry and maintenance of the data. If petitioner's chooses to file a renewed petition, it must be accompanied by comprehensive and exhaustive evidence that supports petitioner's contention that a clerical/docketing error resulted in the unavoidable delay in paying the 7.5-year maintenance fee.

Further, a successful petition under 37 CFR 1.378(b) must establish that the delay—from the expiration of the patent until the filing of grantable petition was unavoidable. The subject patent expired in July 2006, yet the first petition on this matter was not filed until March 4, 2009. It is further noted that the statements of Stan Hockerson and John Halberstadt indicate that they did not become aware of the expiration of the patent until November 18, 2008, when it was disclosed in a pending lawsuit concerning the patent. The unavoidable standard requires that petitioner demonstrate that petitioner acted with reasonable prudence and diligence relative to the maintenance of the patent. Petitioner's argument that the entire delay in paying the maintenance fee was unavoidable is undermined by the fact that a two and one-half year period lapsed before petitioner became aware of the expiration of the patent and that petitioner only became aware of the expiration of the patent because an infringement lawsuit was filed. The exercise of prudence and diligence would require that petitioner make reasonable inquiry into the status of the patent. Petitioner's apparent failure to make such inquiry until prompted by the lawsuit, arguably, belies the assertion that the entire delay in paying the maintenance fee was unavoidable. Petitioner is required to address this matter in any renewed petition filed.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.[8] The petition for reconsideration should be titled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration for this decision must be accompanied by a non-refundable petition fee of $400.00 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. It is, therefore, extremely important that petitioner supply any and all relevant information and documentation with the request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence "to show" that the delay was unavoidable. 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.

A reasonable and prudent person would not rely on maintenance fee reminders from the Office for two reasons. First, the Office has indicated that such reminders are a mere courtesy and has reserved the right to discontinue such reminders at any time. second, such reminders may be lost in the mail. A reasonable and prudent person, in regard to his most important business would not rely solely on reminders that the Office may or may not send which may or may not be lost in the mail.

[8]No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington, DC 20231. A copy of this decision should accompany petitioner's request.

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

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition 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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METAIRIE, LA 70002

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APR 15 2010

OFFICE OF PETITIONS

In re Patent No. 5,784,808 :
Issued: July 28, 1998 :
Application No. 08/714,964 : ON RENEWED PETITION
Filed: September 17, 1996 :
Attorney Docket No. AD9027US (99413.1) :

This is a decision on the petition under 37 CFR 1.378(e), filed September 21, 2009, to reinstate the above-identified patent.

The renewed petition is DENIED[1].

BACKGROUND

The record reflects that:

- on July 28, 1998, United States non-provisional patent application 08/714,964 matured into the subject patent 5,784,808.
- the 7.5 year maintenance fee could have been paid from July 28, 2005 to January 28, 2006, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from January 29, 2006, through July 28, 2006.
- the 7.5-year maintenance fee was not timely paid and the subject patent expired at midnight on July 28, 2006.
- on March 4, 2009, a petition under 37 CFR 1.378(b) was filed. The petition was dismissed by a decision mailed March 23, 2009.
- on April 30, 2009, the instant petition under 37 CFR 1.378(e) was filed.

[1]This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for the purpose of seeking judicial review. See MPEP 1002.02.

- on August 13, 2009, a Request for Information was mailed allowing a non-extendable period for reply of two months from its mailing date.

- on September 21, 2009, a response to the Request for Information was filed.

STATUTES AND REGULATIONS

35 U.S.C. § 41(b) states, in pertinent part, that:

> MAINTENANCE FEES.-- The Director shall charge the following fees for maintaining all patent based on applications filed on or after December 12, 1980:
>
> (1) 3 years and 6 months after grant, $900.
>
> (2) 7 years and 6 months after grant, $2,300.
>
> (3) 11 years and 6 months after grant, $3,800.
>
> Unless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office in or before the date the fee is due or within a grace period of six months thereafter, the patent will expire as of the end of such grace period.

35 U.S. C. § 41(c)(1)

> 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 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.

35 U.S.C. § 41(h)(1)

> Fees charged under subsection (a) or (b) shall be reduced by 50 percent with respect to their application to any small business concern as defined under section 3 of the Small Business Act, and to any independent inventor or non-profit organization as defined in regulations issued by the Director.

37 CFR 1.378(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)(l), and
(3) A showing that delay was unavoidable since reasonable care was taken to ensure 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.

37 CFR 1.378(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 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(f). After the decision on the petition for reconsideration, no further review of the matter will be undertaken by the Director. If 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, 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 error by the Patent and Trademark Office.

THE STANDARD

37 CFR 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 37 CFR 1.137(a). This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: The word 'unavoidable'...is applicable to ordinary human affairs, and requires no more or no greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business[2].

In addition decisions are made on a "case-by-case basis, taking all facts and circumstances into account." Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[3]."

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[2] In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887, Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 138 U.S.P.Q. 666, 167-168 (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).
[3] Haines, 673 F. Supp. at 316-317, 5 U.S.P.Q.2d at 1121-32.

An adequate showing that the delay in payment of the maintenance fee was unavoidable within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) precludes acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

The burden of showing the cause of the delay is in on the person seeking to reinstate the patent[4].

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[5]. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133[6].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later avoid the repercussions of the actions or inaction of this selected representative, for clients are bound by acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[7]."

Presuming for the purpose of discussion that is was an act/omission of Counsel that contributed to any of the delay herein, the act(s) omissions of the attorney/agent are imputed wholly to the applicant/client in the absence of evidence that the attorney/agent has acted to deceive the client. 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, 6330634, 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 Fstener Co., 10 USPQ 106 (2d Cir. 1931).

PETITIONER'S ARGUMENT

Petitioner argues that the above-cited patent should be reinstated because the delay in paying the 7.5-year maintenance fee was unavoidable due to a docketing error that occurred in the offices of Richard E. Backus, the registered attorney charged with the responsibility of paying the 7.5-year

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[4] Id.
[5] Link v. Wabash, 370 U.S. 626, 633-634 (1962).
[6] Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1982); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 103, 131 (Comm'r Pat. 1891).
[7] Link at 633-634.

maintenance fee for the subject patent. Petitioner states that the due dates for the 7.5-year and 11.5-year maintenance fee for the subject patent were some how deleted from Mr. Backus' docketing system—Mac Panorama Database and, therefore, no reminder notice that the 7.5-year maintenance fee was coming due was generated. In support, petitioner filed declarations of Richard E. Backus, John P. Halberstadt, and Stan Hockerson.

OPINION

Petitioner's representative's explanation of the delay has been considered as well as the declarations of Mr. Backus, Mr. Halberstadt, and Mr. Hockerson. It has been determined that all fail to meet the standard for acceptance of a late payment of the maintenance fee and surcharge as set by 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3).

By the instant renewed petition, petitioner's representative surmises that the failure to pay the 7.5-year maintenance fee resulted from an apparent docketing error that occurred under the auspices of Mr. Richard Backus who was responsible for tracking the maintenance fee payment schedule and facilitating payment of the maintenance fee on behalf of the assignee, Hockerson-Halberstadt, Inc. In support, petitioner's representative offers the statements of Mr. Richard E. Backus who states that:

> [t]the docketing error, however, it occurred, was the cause of the delay in payment of the 2nd maintenance fee;
>
> The reason the second maintenance fee was not paid was the result of a docketing error that occurred in my docketing system. I believe that the cause of the error was that the reminder for the second maintenance fee was deleted from my docket as a result of a computer error of some sort. I am the only individual that handles my docketing system, and therefore, the error likely occurred through my actions. I would not have deliberately deleted the reminder, but I cannot be sure how the reminder was deleted.

Excerpt taken from "*Supplemental Declaration of Richard E. Backus*", filed September 21, 2009, pg. 1.

It is noted that Mr. Backus' statement goes on to offer three possibilities of how the docketing error occurred which allegedly resulted in the failure to pay the 7.5-year maintenance fee. The three scenarios set forth by Mr. Backus for how the docketing error occurred are merely supposition and conjecture and offer little toward establishing that the failure to pay the 7.5-year maintenance fee was unavoidable. It is reasonable to question how one can establish that the error that caused the delay in paying the maintenance fee was unavoidable when one cannot affirmatively identify the error. The argument, as presented in the petition and supporting documents, is fatally flawed and statements of Mr. Backus, nor the explanation of petitioner's representative definitively identifies the cause of the docketing error. Petitioner's representative has further alleged that the assignee was not reminded to pay the 7.5-year maintenance fee because of failure of the docketing system of Mr. Backus. In support, statements from Mr. John

P. Halberstadt and Stan Hockerson provide the same iteration of facts. Specifically, Mr. Hokerson's statement provides, in pertinent part, that:

> [a]s the inventor and the president of the assignee Hockerson-Halberstadt, Inc, (HHI") of the above-referenced patent, I relied on Mr. Richard Backus, our patent attorney, and no one else, to send us reminders regarding payment of maintenance fees in the patents that Mr. Backus handled for myself and HHI, including United States Patent No. 5,784,808 (the "808 Patent").
>
> We did not receive a reminder letter from Mr. Backus regarding payment of the second maintenance fee in the '808 Patent. Because we did not receive any reminders from Mr. Backus to pay the maintenance fee. Had I or HHI received a reminder from Mr. Backus, we would have authorized him to pay the second maintenance fee in the '808 Patent.

Excerpt taken from *"Supplemental Declaration of Stan Hockerson"*, filed September 21, 2009, pg. 1.

MPEP 711.03(c)(II)(C)(2), sets forth a circumstance whereby the actions of a clerical employee may be used to demonstrate unavoidable delay. While it is true that a mistake caused by a clerical employee may be used to show that the delay in payment of the maintenance fee was unavoidable, Mr. Backus was an attorney and not a docket clerk. Therefore, what has not been demonstrated by the record is that Mr. Backus was sufficiently trained in docketing practice to ensure that he would be reliable as a docket clerk. Merely sitting with a docket clerk and receiving instructions on docketing procedures is not sufficient to demonstrate proficiency with the clerical function of docketing. The record does not show that any review was made of Mr. Backus' work as a docket clerk to ensure that he would be reliable performing this task. As such, Mr. Backus' alleged failure relative to maintenance of his docketing system cannot be characterized as "unavoidable." It then follows that the granting of this petition is precluded.

Petitioner's argument that similarly situated petitioners have been treated differently is without merit. In particular, the facts presented in U.S. Patent No. 5,164,623 are readily distinguishable from the facts of the present case. In U.S. Patent No. 5,164,623 an attorney, who was not the chosen representative for the assignee, deceived the assignee in to believing that the address of the firm had changed. Thus, the assignee was denied the opportunity to be represented by his chosen counsel. As such, the assignee could not have been bound by the action of a party not freely chosen. Such is not the case in the instant patent.

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.378(e) is **DENIED**. Therefore, the patent will not be reinstated and remains expired.

As stated in 37 CFR 1.378(e), no further reconsideration or review of this matter will be undertaken.

Since this patent will not be reinstated, petitioner is entitled to a refund of the surcharge and the 7.5-year maintenance fee, but not the $400.00 fee associated with the filing of the present renewed petition under 37 CFR 1.378(e). The money will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Director
Office of Petitions
United States Patent and Trademark Office

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)
5733421	1998-03-31	08715583	1996-09-19	

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

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	/Gregory R. Monette/	Date (YYYY-MM-DD)	2008-03-26
Name	Gregory R. Monette		

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. 5733421
Issue Date: March 31,1998
Application No. 08715583
Filed: September 19,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed March 26,2008 ,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 26,2008 . 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.

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)
5864379	1999-01-26	08716199	1996-09-27	

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

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	/Joseph R. Thomas/	Date (YYYY-MM-DD)	2008-12-01
Name	Joseph R. Thomas, President of Wavesource Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	021876	Frame Number	0192
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
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In re Patent No. 5864379
Issue Date: January 26,1999
Application No. 08716199
Filed: September 27,1996
Attorney Docket No. 96-PCT-1

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

This is a decision on the electronic petition, filed December 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 December 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.

03 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

Robert John Mabbott
3 Lincoln Court, Tennyson Road,
Bedford
Bedfordshire MK40 2UX

In re Application of
Robert John MABBOTT
Application No.: 08/716,360
PCT No.: PCT/GB95/00601
Int. Filing Date: 17 March 1995
Priority Date: 18 March 1994
For: TRANSFER MATERIALS

Dear Mr. MABBOTT:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Lissi Mojica
PCT Legal Examiner
PCT Legal Office

Conferee: Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-2260
Facsimile: 703-308-6459

Counsel of Record: Michael J. Murphy
WILSON, SONSINI, GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 93404-1050

03 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

Michael J. Murphy
WILSON, SONSINI, GOODRICH & ROSATI
650 Page Mill Road
Palo Alto, CA 94304-1050

In re Application of :
Robert John MABBOTT :
Serial No.: 08/716,360 : DECISION ON
PCT No.: PCT/GB95/00601 :
Int. Filing Date: 17 March 1995 : RENEWED PETITION
Priority Date: 18 March 1994 :
For: TRANSFER MATERIAL : UNDER 37 C.F.R. §1.47(b)

This is a response to applicants' "Response to Decision on Petitions," filed 03 August 1999. The response is being treated as a renewed petition under 37 C.F.R. § 1.47(b) requesting that the Office accept the application without the signature of the sole inventor, Robert John MABBOTT. No fee is required.

BACKGROUND

On 04 February 1999, this Office mailed a Decision dismissing applicant's petition of 13 July 1998. The Decision indicated that the petitioner is required to provide a substitute declaration under 37 C.F.R. § 1.63 indicating the title of the person signing. In addition, the petitioner was requested to provide sufficient proof that the inventor refuses to execute the application or cannot be reached after diligent effort.

On 03 August 1999, the applicant's filed the instant petition requesting acceptance of the instant application without the signature of the sole inventor Robert John MABBOT. The petition included the following:

A) A substitute declaration indicating the title "Director," for the signer of the declaration, Mr. Alan Porter.

B) A supplementary declaration of facts that provides support for the filing of the application due to the unavailability of the inventor, Robert John MABBOTT.

The Declaration includes the following exhibits:

Exhibit 1) A copy of the first letter to Miss Rodriguez (a Spanish Lawyer) in Palma to try to find MABBOTT. The letter is dated 22 November 1995.

Exhibit 2) A copy of a second letter to Miss Rodriguez dated 28 November 1995.

Exhibit 3) A copy of a fax message to Miss Rodriguez dated 29 December 1995 giving her details that Mabbott was operating from an office in Palma.

Exhibit 4) A copy of a letter from Stephen Oscroft from the firm of Balderton Warren which sets forth the steps that Mr. Porter must take to show that all reasonable steps have been taken to track down MABBOTT in order to serve a Demand upon him.

Exhibit 5) A third letter to Miss Rodriguez, in which Miss Rodriguez was instructed to place an advertisement in the English language newspaper published in Majorca.

Exhibit 6) A copy of a letter to MABBOTT'S parents in Bedford.

Exhibit 7) A copy of a letter to MABBOTT at his last known UK Address.

Exhibit 8) A copy of the envelope for the letter to Mr. MABBOTT dated 01 February 1996.

Exhibit 9) A copy of the advertisement in "Bedfordshire on Sunday" dated 04 February 1996.

Exhibit 10) A copy of the advertisement in the paper published on 03 February 1996.

Exhibit 11) A copy of the fax transmission report to the Majorcan Newspaper dated 01 February 1996 and the text of the advertisement.

Exhibit 12) A copy of a letter from Mrs. Dobbie dated 05 February 1996, which was in response to the advertisement in the Majorcan newspaper. The letter provided an address for MABBOTT's parents in Bedford.

Exhibit 13) A copy of the reply to Mrs. Dobbie dated 06 February 1996.

The petition urges that MABBOTT cannot be located after diligent effort and offers the exhibits above as proof of the diligent efforts to contact Mr. MABBOTT.

DISCUSSION

First, the substitute declaration executed by Mr. Alan Brian Porter, Director of ISO Developments, LTD under 37 C.F.R. § 1.63 meets the requirements to enter the national stage of the instant application. Accordingly, the applicant has met the requirement to provide a declaration by the applicant on behalf of and as agent for the ning-signing invertor. Secondly, in view of the above Exhibits and the statement made by Mr. Porter, petitioner has provided sufficient proof that the inventor cannot be reached after diligent effort.

CONCLUSION

For the reasons discussed above, the renewed petition for status under 37 CFR 1.47(b) is GRANTED.

The United States Designated/Elected Office (US/DO/EO) is authorized to accept the application as a 37 C.F.R. §1.47(b) application and to mail a Filing Receipt. The application will be given an international filing date of **17 March 1995** under 35 U.S.C. §363, and a date of **03 August 1999** under 35 U.S.C. §371(c) and §102(e).

As provided in 37 C.F.R. §1.47(b), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known addresses of record.

The application is being returned to the United States Designated/Elected Office for mailing a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C. §371 and §102(e) date of **03 August 1999**.

Lissi Mojica
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-2260
Facsimile: 703-308-6459

Conferee: Leonard Smith
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: 5/13/05

rvk
Paper Number: ____

In re application of :
Robert John Mabbott : DECISION ON
Serial No. 08/716,360 : PETITION
Filed: August 03 , 1999 :
For: TRANSFER MATERIALS :

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed January 13, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment of January 03, 2005, for failure to timely file a proper response to the Office letter dated November 01, 2004 be withdrawn. The petitioner asserts that the Office letter of November 01, 2004 was not received by applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the Office letter of November 01, 2004 was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter of November 01, 2004 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter of November 01, 2004 was not received. Also provided is a copy of the attorney's application docket records where the Office letter of November 01, 2004 would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to allowance status. The application shall be forwarded to the Office of Patent

Publication for prompt remailing of the above noted Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

PILLSBURY WINTHROP, LLP
P.O.BOX 10500
McLEAN, VA 22102

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.

THE SCRIPPS RESEARCH INSTITUTE
10550 NORTH TORREY PINES ROAD
MAIL DROP TPC 8
LA JOLLA, CA 92037

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AUG 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Kim D. Janda et al :
Application No. 08/716,448 : ON PETITION
Filed: May 22, 1998 :
Attorney Docket No. TSRI445.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 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 non-final Office action mailed February 12, 2002, 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 May 13, 2002.

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

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 04/21/2010

Applicant	: LAWRENCE J. TORANGO	: DECISION ON REQUEST FOR
Patent Number	: 5885158	: RECALCULATION of PATENT
Issue Date	: 03/23/1999	: TERM ADJUSTMENT IN VIEW
Appliction No	: 08/716,823	: OF WYETH
Filed	: 09/10/1996	:
		:

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.

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 31

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

SEP 25 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER OHMAN
and
ROLF LASSON

Appeal No. 2001-1884
Application No. 08/718,692

ORDER REMANDING TO EXAMINER

Before PAK, LIEBERMAN and JEFFREY T. SMITH, Administrative Patent Judges.

PAK, Administrative Patent Judge.

REMAND TO THE EXAMINER

On this record, we determine that this case is not ripe for meaningful review and is, therefore, remanded to the examiner for

appropriate action not inconsistent with the views expressed herein.

The subject matter on appeal is directed to a method of producing a laminate material suitable for use in packaging. Further details of this subject matter are set forth in representative claim 39, which is provided below:

39. A method of producing a laminate material suitable for use in packaging material, comprising:

providing a pre-manufactured first web comprising a layer of polyethylene extruded at a temperature Te above a breakpoint temperature which is higher than a normal melting temperature TM of the extruded polyethylene, said layer of polyethylene having an outer surface;

providing a second web comprising a layer of PET or OPET, said PET or OPET having an outer surface;

subjecting the first web and the second web to a non-chemical surface activation treatment in a continuous process; and

contacting the outer surface of the polyethylene layer of the first web with the outer surface of the PET or OPET layer of the second web and permanently uniting the first and second webs which have been subjected to the surface activation treatment with one another by simultaneous application of heat and pressure.

As evidence of unpatentability of the claimed subject matter under Section 103, the examiner relies on, inter alia, the disclosure of "JP53-120791". To sustain this rejection, the

examiner refers to the English abstract of "JP53-120791" to support his position. See the Answer dated March 14, 2001, pages 2 and 3, and the final Office action dated May 30, 2000, pages 2 and 3. At no time has the examiner referred to or reviewed an English translation of the entire "JP53-120791" document.[1] See the final Office action, pages 2 and 3, and the Answer, pages 2 and 3. In so doing, the examiner fails to take into account the "JP53-120791" document as a whole in his Section 103 analysis. In re Hedges, 783 F.2d 1038, 1040, 228 USPQ 685, 687 (Fed. Cir. 1986)("the prior art as a whole must be considered").

Moreover, according to the memorandum by Deputy Commissioner for Patent Examination policy to the Patent Examining Corp on April 29, 2002:

> In limited circumstances, it may be appropriate for the examiner to make a rejection in a non-final Office action based in whole or in part on the abstract only without relying on the full text document. In such circumstances, the full text document and a translation

[1] During the hearing dated September 18, 2002, the appellants' representative also took the position that he has never received or reviewed the English translation of the entire "JP53-120791" document relied upon by the examiner.

> (if not in English) may be supplied in the next Office action. Whether the next Office action may be made final is governed by MPEP § 706.07(a).
>
> Experience at the Board of Patent Appeals and Interferences indicates that consideration of an English language version of the underlying document instead of the abstract aids in the resolution of the patentability issues raised in an appeal. Many cases would not have gone to appeal had the examiner obtained the full text of the underlying document and any needed translation and considered the patentability of the claims in light of the fuller set of facts.

In addition to the above substantive deficiency, our review of the Answer indicates that a mandatory appeal conference did not take place consistent with the requirements of the Manual of Patent Examining Procedure (MPEP) § 1208 (8th Ed., August 2001). According to MPEP § 1208:

> An appeal conference is mandatory in all cases in which an acceptable brief (MPEP 1206) has been filed . . . .
>
> The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal . . . .
>
> . . . .
>
> On the examiner's answer, below the primary examiner's signature, the word, "Conferees:" should be

> included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name.

The examiner's answer clearly lacks a primary examiner's signature and conferee's initials.

Upon return of this application to the examiner's jurisdiction, the examiner is to review the "JP53-120791" document in its entirety to determine the propriety of the Section 103 rejections set forth in the Answer. For such a purpose, we have enclosed herewith a copy of the English translation of the "JP53-120791" document. If the examiner remains of the view that the Section 103 rejections set forth in the Answer must be maintained, the examiner must file a new Answer evidencing that a mandatory appeal conference took place consistent with the requirements of MPEP § 1208. We do not authorize the examiner to file a Supplemental Examiner's Answer under 37 CFR § 1.193(b)(1). Should the examiner's rejections contain new and materially different evidence previously not relied upon by the examiner, the examiner must reopen the prosecution of this application.

This application, by virtue of its "special" status, requires an immediate action. See MPEP § 708.01 (8th Ed., August 2001). It is important that the Board be informed promptly of any action affecting the appeal in this case (e.g., abandonment, issue, reopening prosecution).

REMANDED

CHUNG K. PAK)
Administrative Patent Judge)
)
)
PAUL LIEBERMAN) BOARD OF PATENT
Administrative Patent Judge) APPEALS AND
) INTERFERENCES
)
JEFFREY T. SMITH)
Administrative Patent Judge)

CKP:psb

Appeal No. 2001-1884
Application 08/718,692

Burns Doane Swecker & Mathis LLP
Post Office Box 1404
Alexandria, VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 52

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of
Peter Ohman et al
Application No. 08/718,692
Filed: September 27, 1996
Attorney Docket No. 027650-534

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2003, 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)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of July 18, 2004 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the above-identified application became abandoned on September 19, 2004. See MPEP 1214.06.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion 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; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (4) above.

The instant petition lacks item (4). A terminal disclaimer (and fee) is also required for a utility or plant application filed on or after June 8, 1995, but before May 29, 2000, where the application became abandoned during appeal. The reason being that utility and plant patents issuing on applications filed on or after June 8, 1995, but before May 29, 2000, are eligible for the patent term extensions under former 35 U.S.C. § 154(b) (as a result of the Uruguay Round Agreement Act (URAA)). If such an application is abandoned during appeal, the patentee of a patent issuing from such an application is eligible for these situations will make certain that any patent term extension obtained for the period of abandonment while the application is under appeal, interference, or a secrecy order will be dedicated to the public.

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

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

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

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.[1]

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Effective September 27, 2004, the phone number will be 571-272-3220.

UNITED STATES 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. 55

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

COPY MAILED

OCT 15 2004

OFFICE OF PETITIONS

In re Application of :
Peter Ohman et al :
Application No. 08/718,692 : ON PETITION
Filed: September 27, 1996 :
Attorney Docket No. 027650-534 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 29, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The terminal disclaimed filed September 29, 2004 under 37 CFR 1.137 has been entered and made of record. Effective September 8, 2000, 37 CFR 1.137(d)(1) has been added to state that a terminal disclaimer filed pursuant to this rule must dedicate to the public a terminal part of the term of any patent granted thereon equivalent to the lesser of: 1) the period of abandonment of the application; or 2) the period extending beyond twenty years from the date on which the application for 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. 65 Fed. Reg. 54,674 (2000). Accordingly, the period of the terminal disclaimer filed September 29, 2004 will be equivalent tot he lesser of period (1) or (2), as noted above, for this application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

The application file is being forwarded to Technology Center AU 1734 for processing of the Request for Continued Examination (RCE) under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
5857509	1999-01-12	08718766	1996-09-25	SLIP-3

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	/Leonard Tachner/	Date (YYYY-MM-DD)	2007-10-03
Name	Leonard Tachner	Registration Number	26344

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. 5857509
Issue Date: January 12,1999
Application No. 08718766
Filed: September 25,1996
Attorney Docket No. SLIP-3

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

This is a decision on the electronic petition, filed October 3,2007 ,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 3,2007 . 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. 33

Bruce D. Jobse
KUDIRKA & JOBSE, LLP
One State Street
Suite 1510
Boston, MA 02109

MAIL

AUG 1 4 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:)
Shane D. Mattaway, et al.)
Application No.: 08/719,639)
Filed: September 25, 1996)
For: METHOD AND APPARATUS FOR PROVIDING CALLER IDENTIFICATION RESPONSES IN A COMPUTER TELEPHONY ENVIRONMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Or Agent filed July 11, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All attorneys listed under customer number 21127 have been withdrawn.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Jeffery S. Ginsberg, Esq.
KENYON & KENYON
One Broadway
New York, NY 10004

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)
6002938	1999-12-14	08720312	1996-09-27	CARNALL-P001

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 Eisenberg/	Date (YYYY-MM-DD)	2009-12-07
Name	Michael Eisenberg	Registration Number	50448

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. 6002938
Issue Date: December 14,1999
Application No. 08720312
Filed: September 27,1996
Attorney Docket No. 125/45/2/2

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

This is a decision on the electronic petition, filed December 7,2009 ,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 December 7,2009 . 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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MAILED

MAY 10 2010

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Patent No. 5,799,273 :
Issue Date: August 25, 1998 :
Application No. 08/720,373 : NOTICE
Filed: September 27, 1993 :
Attorney Docket No. 1365.027US1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: KENDAL SHEETS
COMPUTER PATENT ANNUITIES NORTH AMERICA
225 REINEKERS LANE
SUITE 400
ALEXANDRIA, VA 22314

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	: ALI SAFFARI	: DECISION ON REQUEST FOR
Patent Number	: 5769716	: RECALCULATION of PATENT
Issue Date	: 06/23/1998	: TERM ADJUSTMENT IN VIEW
Application No	: 08/720,490	: OF WYETH
Filed	: 09/30/1996	:
		:

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

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

SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: ROBERT A. LUCIANO JR.	: DECISION ON REQUEST FOR
Patent Number	: 5910044	: RECALCULATION of PATENT
Issue Date	: 06/08/1999	: TERM ADJUSTMENT IN VIEW
Application No	: 08/720,590	: OF WYETH
Filed	: 09/30/1996	:
		:

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. 37

Laura G. Barrow
P.O. Box 215
Estero, FL 33928-0215

In re Application of	:	
Asher Gil, et al.	:	
Application No. 08/720,927	:	ON PETITION
Filed: October 4, 1996	:	
Attorney Docket No. PI/3C	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 30, 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 February 20, 2002 which set a shortened statutory period for reply of three (3) months. A three(3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 21, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2100, Art Unit 2161 for processing the Request for Continued Examination under 37 CFR 1.114, filed on September 30, 2002.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
Petitions 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)
5706628	1998-01-13	08720961	1996-10-10	8402.223

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	/klhester/	Date (YYYY-MM-DD)	2010-01-21
Name	Kathryn L. Hester, Ph.D.	Registration Number	46768

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. 5706628
Issue Date: January 13,1998
Application No. 08720961
Filed: October 10,1996
Attorney Docket No. 8402.223

:
: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.

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)
5,772,916	1998-06-30	08/720,980	1996-10-15	060907/01180

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	/Charles Achkar/	Date (YYYY-MM-DD)	2007-03-22
Name	Charles Achkar	Registration Number	43311

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. 5772916
Issue Date: June 30,1998
Application No. 08720980
Filed: October 15,1996
Attorney Docket No. 6243-63

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

This is a decision on the electronic petition, filed March 22,2007 ,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 22,2007 . 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)
6154763	2000-11-28	08721161	1996-09-26	

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

	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
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In re Patent No. 6154763
Issue Date: November 28,2000
Application No. 08721161
Filed: September 26,1996
Attorney Docket No. PHN-15.469

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

This is a decision on the electronic petition, filed May 27,2009 ,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 May 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

JILL A. JACOBSON
MORRISON & FOERSTER
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

COPY MAILED

JUL 0 6 2006

OFFICE OF PETITIONS

In re Patent No. 6,100,242 :
Issue Date: August 8, 2000 :
Application No. 08/722,271 : ON PETITION
Filed: December 29, 1997 :
Patentee(s) H. Kirk Hammond et al :

This is a decision on the petition under 37 CFR 1.378(c), filed March 30, 2006, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(c) 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 (571) 272-3220.

The patent file is being forwarded to Files Repository.

Wan Laymon
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. 6481576
Issue Date: November 19,2002
Application No. 08722345
Filed: September 27,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed August 14,2007 ,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 August 14,2007 . 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.

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)
6,481,576	2002-11-19	08/722,345	1996-09-27	1190091-0684

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 M. Genova/	Date (YYYY-MM-DD)	2007-08-14
Name	/John M. Genova/	Registration Number	32224

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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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/12/2010

Applicant	: LOGAN L. PEASE	: DECISION ON REQUEST FOR
Patent Number	: 5855515	: RECALCULATION of PATENT
Issue Date	: 01/05/1999	: TERM ADJUSTMENT IN VIEW
Application No	: 08/722,374	: OF WYETH
Filed	: 09/30/1996	:
		:

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
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In re Patent No. 5638982
Issue Date: June 17,1997
Application No. 08722673
Filed: September 30,1996
Attorney Docket No.

:
: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)
5638982	1997-06-17	08722673	1996-09-30	

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)	2010-06-30
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

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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.

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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: CHRIS T. BRUNE	: DECISION ON REQUEST FOR
Patent Number	: 5851148	: RECALCULATION of PATENT
Issue Date	: 12/22/1998	: TERM ADJUSTMENT IN VIEW
Application No	: 08/723,136	: OF WYETH
Filed	: 09/30/1996	:
		:

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

UNITED STATES DEPARTMENT OF COMMERCE
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 05/07/2010

Applicant	: ROBERT BARRIE	: DECISION ON REQUEST FOR
Patent Number	: 5833537	: RECALCULATION of PATENT
Issue Date	: 11/10/1998	: TERM ADJUSTMENT IN VIEW
Application No	: 08/723,322	: OF WYETH
Filed	: 09/30/1996	:
		:

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

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JOHN S EGBERT
HARRISON AND EGBERT
1018 PRESTON ST SUITE 100
HOUSTON TX 77002

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NOV 2 9 2004

OFFICE OF PETITIONS

In re Patent No. 5,677,103 :
Issue Date: 14 October, 1997 :
Application No. 08/723,679 : ON PETITION
Filed: 30 September, 1996 :
Attorney Docket No. 1203-18 :

This is a decision on the petition styled under 37 CFR 1.183, filed on 26 October, 2004, which is treated as a petition under 37 CFR 1.377 to accept and record a maintenance fee for the above-identified patent.

It is noted that petitioners filed a paper styled as a petition under 37 CFR 1.181 on 25 January, 2002, concerning the treatment of the above-referenced maintenance fee. The Office apologizes for the delay in responding to the petition and regrets any inconvenience to petitioners.

The petition is **dismissed**.

The patent issued on 14 October, 1997.

Petitioners assert that a maintenance fee payment in the correct amount (a credit card form completed for $850.00) asserted to have been intended for the above-identified patent, was inadvertently captioned for U.S. Patent No. 5,667,103. Inspection of USPTO financial records reveals that the aforementioned maintenance fee, with a USPTO receipt date of 22 February, 2001, was duly applied to the indicated patent, and that patent maintained in force.

Petitioners now contend that, through an inadvertent typographical error, the fee was not credited to the correct patent.

37 CFR 1.377(a) permits a patentee who is dissatisfied with the refusal of the Office to accept and record a maintenance fee

which was filed prior to the expiration of the patent to petition the Commissioner to accept and record the maintenance fee. This petition may be used, for example, in situations where an error is present in the identifying data required by 37 CFR 1.366(c) with the maintenance fee payment, i.e., either the patent number or the application number are incorrect.[1] A petition under 37 CFR 1.377 would not be appropriate where there is a complete failure to include at least one correct mandatory identifier as required by 37 CFR 1.366(c) for the patent since no evidence would be present as to the patent on which the maintenance fee was intended to be paid.

Petitioners have presented a copy of the credit card payment form and letter transmitting the maintenance fee payment to the USPTO bearing a certificate of mailing dated 22 February, 2001, containing both application and patent numbers in support of petitioners' contention that the maintenance fee was intended for Patent No. 5,677,103. However, both the transmittal letter and the credit card payment form reference Patent No. 5,667,103 and Application No. 08/403,254. This number corresponds to the serial number of Patent No. 5,667,103, which issued from Application No. 08/403,254. As such, the showing of record is neither the application number (*i.e.*, Application No. 08/723,679) nor the patent number corresponding to Patent No. 5,677,103 was present among the correspondence filed with the payment received on 22 February 2001. Since no mandatory identifiers for the present patent were present, the petition under 37 CFR 1.377 is not appropriate and must be dismissed.

Petitioners may submit a renewed petition accompanied by a copy of the maintenance fee transmittal sheet or any other documentation submitted with the maintenance fee payment that would substantiate that at least one correct mandatory identifier was present with the above-identified maintenance fee submission. However, the maintenance fee submitted on 22 February, 2001, will remain applied to Patent No. 5,667,103 unless and until petitioner submits sufficient evidence that the maintenance fee payment was intended for another patent.

The address on the petition is different than the correspondence address of record. A courtesy copy of this decision will be mailed to petitioners. All future correspondence, however, will be mailed solely to the correspondence address of record unless and until a change of correspondence address is filed. A Change

[1] See MPEP §2515 and §2530.

of Correspondence Address--Patent is enclosed for petitioners' convenience. If petitioners desire to receive future correspondence regarding any Maintenance Fee Reminder which **may** be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

The petition fee of $130.00 will not be refunded because the petition was not necessitated by an error on the part of the USPTO.

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 2, Lobby, Room 1B03
Arlington, VA 22202

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: ANDREW W. CHU
HARRISON & EGBERT
412 MAIN ST., 7TH FLOOR
HOUSTON TX 77002

cf: Form PTO/SB/47
Form PTO/SB/123
Privacy Act Statement

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)
5868618	1999-02-09	08723829	1996-09-30	VIDEO-#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

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	/Neil J. Netley/	Date (YYYY-MM-DD)	2007-09-25
Name	Neil J. Netley		
Enter Reel and Frame Number		Remove	
Reel Number	008255	Frame Number	0249
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. 5868618
Issue Date: February 9,1999
Application No. 08723829
Filed: September 30,1996
Attorney Docket No. VIDEO-#2

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

This is a decision on the electronic petition, filed September 25,2007,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 25,2007. 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.

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)
5879162	1999-03-09	08724454	1996-10-01	B1016/20008

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	/Scott M. Slomowitz/	Date (YYYY-MM-DD)	2007-05-22
Name	Scott M. Slomowitz	Registration Number	39032

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. 5879162
Issue Date: March 9,1999
Application No. 08724454
Filed: October 1,1996
Attorney Docket No. B1016/20008

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

This is a decision on the electronic petition, filed May 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 May 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.

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)
5956404	1999-09-21	08/724,622	1996-09-30	022133-000100US

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	/philip h. albert/	Date (YYYY-MM-DD)	2008-01-14
Name	Philip H. Albert	Registration Number	35819

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)).

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5956404
Issue Date: September 21,1999
Application No. 08724622
Filed: September 30,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed January 14,2008 ,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 January 14,2008 . 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.

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)
5,975,628	1999-11-02	08/725,154	1996-10-03	REED1006

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

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	/Karry W. Wang/	Date (YYYY-MM-DD)	2008-02-29
Name	Karry W. Wang	Registration Number	50178

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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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. 5975628
Issue Date: November 2,1999
Application No. 08725154
Filed: October 3,1996
Attorney Docket No. RUSL-320

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

This is a decision on the electronic petition, filed February 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 February 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 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.

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)
5,868,969	1999-02-09	08/725,354	1996-10-03	25237

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

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	/John Floden/	Date (YYYY-MM-DD)	2009-01-02
Name	John Floden		
Enter Reel and Frame Number		Remove	
Reel Number	008258	Frame Number	0203
Enter Reel and Frame Number		Remove	
Reel Number	008556	Frame Number	0903
Enter Reel and Frame Number		Remove	
Reel Number	022034	Frame Number	0971
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. 5868969
Issue Date: February 9,1999
Application No. 08725354
Filed: October 3,1996
Attorney Docket No. 25237

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

This is a decision on the electronic petition, filed January 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 January 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

APR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No. 08/725580	:	
Filing or 371(c) Date: 10/08/1996	:	ON PETITION
Patent No. 6108493	:	
Issue Date: 08/22/2000	:	
Attorney Docket Number: 2222.0650000	:	

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**.

Petitioner is advised that the current fee for the three and one-half (3½) year maintenance fee is currently $930.00. Petitioner is advised to check the current fee schedule at http://www.uspto.gov/main/howtofees.htm, when submitting fees to this Office. Petitioner's deposit account has been charged the difference between the amount set forth in the petition, $455.00, and the correct amount due: $475.00, or $20.00.

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.

Petitioner has also filed with the petition a Fee Address Indication Form. The address appearing on the form states that the form should be addressed to Mail Stop M Correspondence. Petitioner is advised that in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37

CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence. Petitioner is advised to re-send this form to the correct address as identified in the form.

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

Derek L. Woods
Attorney
Office of Petitions

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)
5978666	1999-11-02	08725962	1996-10-04	ENW.306C

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	/ Edward B. Anderson /	Date (YYYY-MM-DD)	2008-01-21
Name	Edward B. ANDERSON	Registration Number	30154

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. 5978666
Issue Date: November 2,1999
Application No. 08725962
Filed: October 4,1996
Attorney Docket No. END010A

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

This is a decision on the electronic petition, filed January 21,2008 ,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 January 21,2008 . 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 13

HILL & HUNN LLP
201 MAIN STREET
SUITE 1440
FORT WORTH, TX 76102

COPY MAILED

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Daniel A. Henderson
Application No. 08/726,024
Filed: October 04, 1996
Attorney Docket No. 317MH-23513

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2000, 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 June 08, 1999, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 09, 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 Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center 3700 for further processing.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Marianne Morgan
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5800006
Issue Date: September 1,1998
Application No. 08726216
Filed: October 4,1996
Attorney Docket No. 380039

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

This is a decision on the electronic petition, filed April 9,2007 ,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 9,2007 . 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.

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)
5800006	1998-09-01	08726216	1996-10-04	380039

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

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	/William Pettigrew/	Date (YYYY-MM-DD)	2007-04-09
Name	William Pettigrew		

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.

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)
5690309	1997-11-25	08726384	1996-10-04	BLUM

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 Berns/	Date (YYYY-MM-DD)	2010-01-06
Name	Michael Berns	Registration Number	38379

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. 5690309
Issue Date: November 25,1997
Application No. 08726384
Filed: October 4,1996
Attorney Docket No. BLUM0002

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

This is a decision on the electronic petition, filed January 6,2010 ,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 6,2010 . 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

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Mailed: DEC 18 2001

spg
Paper Number 26

In re application of
James M. Mori et al.
Serial No. 08/726,613
Filed: October 7, 1996
For: DYED PHOTORESISTS AND METHODS AND ARTICLES OF MANUFACTURE COMPRISING

DECISION ON PETITION

This is a response to the REQUEST FOR WITHDRAWAL OF ERRONEOUS NOTICE OF ABANDONMENT, filed November 5, 2001. The request asks that the abandonment, as set forth in the Notice of Abandonment of October 23, 2001, for failure to respond to the Office letter, mailed March 15, 2001be withdrawn. The requester asserts that the Notice of Abandonment is improper since the Office letter of March 15, 2001 was a non-final Office Action that was properly responded to by the filing of a response thereto on August 15, 2001.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the requestor's evidence and the USPTO file history indicates that the request has merit. A review of the file history indicates that the Office letter mailed March 15, 2001 was a non-final office action. The applicant properly responded to the Office letter of March 15, 2001 by filing an AMENDMENT on August 15, 2001. In response to the AMENDMENT, filed August 15, 2001, the Examiner prepared an Advisory Action that was mailed on September 13, 2001. The preparation of an Advisory Action by the Examiner was improper because an Advisory Action is only available to respond to responses filed after final rejection, which was not the case in the instant application. In response to the AMENDMENT, filed August 15, 2001, the Examiner should have prepared an office action responding to all points raised by the AMENDMENT rather than preparing and Advisory Action and as such it is considered that applicant's request has merit.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt entry and consideration of the AMENDMENT filed August 15, 2001.

The Petition is **GRANTED**.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Dike Bronstein Roberts & Cushman
Intellectual Property Practice Group
Edwards & Angell
P.O. Box 9169
Boston MA 02209

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)
5755308	1998-05-26	08726646	1996-10-07	561802-1190

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

	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	/haroldlmarquis/	Date (YYYY-MM-DD)	2010-05-28
Name	Harold L. Marquis	Registration Number	20594

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. 5755308
Issue Date: May 26,1998
Application No. 08726646
Filed: October 7,1996
Attorney Docket No. REYC19449

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

This is a decision on the electronic petition, filed May 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 May 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.

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)
5,890,172	1999-03-30	08/727,085	1996-10-08	NJI 0104 PUS

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 E. Nemazi/	Date (YYYY-MM-DD)	2007-08-28
Name	John E. Nemazi	Registration Number	30876

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

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. 5890172
Issue Date: March 30,1999
Application No. 08727085
Filed: October 8,1996
Attorney Docket No. 18041.701

:

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

:

This is a decision on the electronic petition, filed August 28,2007 ,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 28,2007 . 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

THADDIUS J. CARVIS
102 NORTH KING STREET
LEESBURG, VA 20176

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of :
Wildner et al. :
Patent No.: 6,790,447 :
Issue Date: September 14, 2004 :
Application No. 08/727,529 :
International Filing Date: : DECISION ON
April 21, 1995 : PETITION
371 Date: October 18, 1996 :
Title of Invention: PEPTIDES FOR :
TREATMENT OF AUTOIMMUNE DISEASES :

This is a decision in response to the Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed April 6, 2005. The delay in treating this petition is regretted.

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

Background

Applicant filed a Request for Continued Examination (RCE) under 37 CFR 1.114 on February 4, 2002, in the above-identified application, which is the National Stage of an International Application filed on April 21, 1995. The RCE was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. See 37 CFR 1.114(e)(3).

A request for continued examination is not a type of new application filing. See Request for Continued Examination Practice and Changes to Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092, 50097 (August 16, 2000). The Office cannot convert an improper RCE to an application, such as a continuing application under 37 CFR 1.53(b) or (d). An improper RCE will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. See Manual for Patent Examining Procedure (MPEP) 706.07(h), page 700-70, subsection III.A., "Treatment of Improper RCE", (8th Ed. 2001).

In the instant case, a Notice of Appeal was filed on August 29, 2001. Under 37 CFR 1.192(a), applicant must file a brief within two months from the receipt date of the notice of appeal. This time period is extendable under 37 CFR 1.136. The filing of the improper RCE on February 4, 2002 is treated as a request to withdraw the appeal and to reopen the prosecution of the application before the examiner. See 37 CFR 1.114(d). Upon withdrawal of the appeal, the application is treated in accordance with MPEP § 1215.01 based on whether there are any allowed claims or not. Since no claims were allowed in the above identified application, the application became **abandoned** as of the filing of the improper RCE, on February 4, 2002.

The Office, however, mistakenly treated the improper RCE as a proper RCE and reopened the prosecution of the application.

Applicant was advised in a Notice Regarding Improper Request for Continued Examination mailed on March 24, 2005, that the RCE was improper, and advised to file a petition under 37 CFR 1.137(b) and fee as set forth in 37 CFR 1.17(m).

Discussion

Petition to Revive

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicants become aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (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) a terminal disclaimer (and fee set forth in § 1.20(d)) is required pursuant to paragraph (c) of this section (for applications filed before June 8, 1995).

Applicants have satisfied Items (1) through (4). With regard to subsection (4), since the above-identified application is a utility application filed before June 8, 1995, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of any term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period

of abandonment will be computed to be the number of months lapsed from the date of abandonment to the date when this application issued as a patent. A terminal disclaimer fee of $65 is required and has been provided. The terminal disclaimer filed on April 6, 2005, has been accepted.

All of the requirements of 37 CFR 1.137(b) have now been met. Accordingly, applicants' petition to revive under 37 CFR 1.137(b) is **granted**.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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)
5869822	1999-02-09	08727846	1996-10-04	MDSS120497

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	/Daiva K. Tautvydas/	Date (YYYY-MM-DD)	2007-04-11
Name	Daiva K. Tautvydas	Registration Number	36077

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. 5869822
Issue Date: February 9,1999
Application No. 08727846
Filed: October 4,1996
Attorney Docket No. MDSS120497

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

This is a decision on the electronic petition, filed April 11,2007 ,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 11,2007 . 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)
5,716,369	1998-02-10	08/728,268	1996-10-08	A-14739

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 R. Schaub/	Date (YYYY-MM-DD)	2010-05-05
Name	Charles R. Schaub	Registration Number	27518

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.

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In re Patent No. 5716369
Issue Date: February 10,1998
Application No. 08728268
Filed: October 8,1996
Attorney Docket No. 1-4314

:
: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 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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,084,260	:	LETTER REGARDING
Lonberg et al.	:	PATENT TERM ADJUSTMENT
Issue Date: August 1, 2006	:	and
Application No. 08/728,463	:	NOTICE OF INTENT TO ISSUE
Filed: October 10, 1996	:	CERTIFICATE OF CORRECTION
Atty Docket No. 14643-009020	:	

This is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.322" filed October 2, 2006, notifying the Office of an error in Patentees' favor in the determination of patent term adjustment under 35 U.S.C. § 154(b)[1] indicated on the above-identified patent. Patentees disclose that the patent term adjustment indicated on the patent should be five hundred fifty-one (551), not six hundred three (603) days. This request was recently forwarded to the undersigned for consideration.

This paper should have properly been filed as a Letter Regarding Patent Term Adjustment, pursuant to Comment 43. See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). There is no fee for such a letter notifying the Office of an error in applicants/patentees favor.

The request for correction of the determination of patent term adjustment (PTA) is **GRANTED to the extent indicated herein**.

[1] This application became eligible for patent term adjustment for examination delay by virtue of the filing of a continued prosecution application on July 17, 2000.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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 **FOUR HUNDRED EIGHTY-SEVEN (487)** days.

On August 1, 2006, the application matured into U.S. Patent No. 7,084,260, with a revised patent term adjustment of 603 days. On October 2, 2006, patentees submitted this request for reconsideration of patent term adjustment, asserting that the correct number of days of Patent Term Adjustment is 551 days. Patentees state no basis for their assertion that the patent term adjustment should be 551 days.

Nonetheless, a review of the application history reveals that additional periods of reduction pursuant to 37 CFR 1.704(c)(7) and (c)(10) should have been entered. Pursuant to §1.704(c)(7), a period of reduction of 52 days should have been entered. 37 C.F.R. §1.704(c)(7) provides that a period of reduction is entered for:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

In this instance, a response was filed on March 16, 2001. However, by Notice to Comply with Sequence Rules mailed April 10, 2001, applicants were advised that there was an omission in their response. On May 7, 2001, applicants filed a response correcting the omission. Thus, the period of reduction is 52 days counting the number of days in the period beginning on March 17, 2001, the day after the first response was filed, and ending on May 7, 2001, the date that the response correcting the omission was filed.

Furthermore, a review of the record reveals that a period of reduction, pursuant to 37 CFR 1.704(c)(10), of 64 days should have been entered in association with the filing of a REQUEST FOR ACKNOWLEDGMENT OF PREVIOUSLY SUBMITTED INFORMATION

DISCLOSURE STATEMENT filed October 28, 2005 (and resubmitted December 19, 2005). 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; …

This request was filed after the mailing of the Notice of Allowance. This request was for acknowledgment of references last submitted to the Office on March 15, 2001. However, a careful review of the prosecution history reveals that patentees did not make this request until after the mailing of the notice of allowance, more than four years after the filing of the IDS and after the mailing of many Office actions that did not acknowledge the IDS. As such, this is properly considered a failure to engage within the meaning of 37 CFR 1.704(c)(10). The Office mailed a response on December 30, 2005. Accordingly, the period of reduction is 64 days (beginning on October 28, 2005 and ending on December 30, 2005.)

In view thereof, the patent should have issued with a revised patent term adjustment of four hundred eighty-seven (487) days (781 days of Office delay reduced by 294 days of applicant delay).

As this request was submitted to advise the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 CFR 1.705(b). The Office thanks

Patentees for their good faith and candor in bringing this matter 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 **FOUR HUNDRED EIGHTY-SEVEN (487)** days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,084,260 B1

DATED : August 1, 2006

INVENTOR(S) : Lonberg et al.

DRAFT

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 (603) days

Delete the phrase "by 603" and insert – by 487 days--

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.

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BOSTON MA 02109

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SEP 29 2008

OFFICE OF PETITIONS

In re Patent No. 7,084,260	:	LETTER REGARDING
Lonberg et al.	:	PATENT TERM ADJUSTMENT
Issue Date: August 1, 2006	:	and
Application No. 08/728,463	:	NOTICE OF INTENT TO ISSUE
Filed: October 10, 1996	:	CERTIFICATE OF CORRECTION
Atty Docket No. 14643-009020	:	

This is in response to the "RESPONSE TO LETTER REGARDING OF PATENT TERM ADJUSTMENT" filed October 26, 2007. Patentees request reconsideration of the decision mailed September 20, 2007, correcting the patent term adjustment to four hundred eighty-seven (487) days by issuance of a certificate of correction. Patentees request correction of the patent term adjustment to five hundred fifty-one (551) days.

This request was properly filed by the prior attorney of record. A power of attorney and revocation of prior powers, including a change of correspondence address, was filed on January 8, 2008. Accordingly, this decision is being mailed to the new attorneys of record at the new correspondence address.

The request for correction of the determination of patent term adjustment (PTA) is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a second certificate of correction showing a revised Patent Term Adjustment of **FIVE HUNDRED FIFTY-ONE (551)** days.

On August 1, 2006, the application matured into U.S. Patent No. 7,084,260, with a revised patent term adjustment of 603 days. On October 2, 2006, patentees submitted a letter disclosing that

the patent term adjustment should be 551 days, not 603 days. By decision mailed September 20, 2007, the Office determined that the correct determination of patent term adjustment was 487 days. Patentees did not state a basis for their disclosure. The undersigned reviewed the record and determined that a period of reduction pursuant to 37 CFR 1.704(c)(7), a period of reduction of 52 days should have been entered, and pursuant to 37 CFR 1.704(c)(10), a period of reduction of 64 days should have been entered. Pursuant to the September 20, 2007 decision, the Office issued a Certificate of Correction correcting the patent term adjustment in this patent to 487 days.

On instant request for reconsideration, patentees timely requested reconsideration of the entry of the period of reduction, pursuant to 37 CFR 1.704(c)(10), of 64 days for the filing of a REQUEST FOR ACKNOWLEDGMENT OF PREVIOUSLY SUBMITTED INFORMATION DISCLOSURE STATEMENT filed October 28, 2005 (and resubmitted December 19, 2005). Patentees argue that the filing of this paper was not a failure to engage within the meaning of 37 CFR 1.704(c)(10) as patentees submitted the same IDS on two separate occasions earlier in the patent. However, in both instances and for no apparent reason, the IDS submitted was not reviewed or acknowledged by the examiner. In support thereof, patentees submitted *prima facie* evidence in the form of copies of date-stamped and itemized return receipt postcards showing that IDSs were originally filed on January 28, 1997 and March 15, 2001.

Patentees' arguments have been considered and found persuasive. A further review of the prosecution history, in light of the evidence on petition, reveals that entry of the period of reduction, pursuant to 37 CFR 1.704(c)(10), was not warranted. The fact that the IDSs were originally filed (and refiled) under circumstances that did not constitute a failure to engage in reasonable efforts to engage, but not considered by the Office is persuasive. Under the circumstances, the further resubmission of the IDS on October 28, 2005 and on December 19, 2005 after the mailing of the notice of allowance did not constitute a failure to engage within the meaning of 37 CFR 1.704(c)(10). The period of reduction of 64 days is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of five hundred fifty-one (551) days.

No fee is required on request for reconsideration of a decision on patent term adjustment.

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 **FIVE HUNDRED FIFTY-ONE (551)** days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,084,260 B1

DATED : **August 1, 2006** **DRAFT**

INVENTOR(S) : Lonberg 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 603 days

Delete the phrase "by 603 days" and insert – by 551 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 08-02

Paper No. 10

EUGENE L. FLANAGAN III, ESQ.
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

COPY MAILED

JUN 2 0 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Aijala et al.
Application No. 08/728,624
Filed: October 10, 1996
Attorney Docket No. 03382-P0027C ELF

This is a decision on the petition under 37 CFR 1.137(b), filed on April 24, 2002, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned on November 24, 2001 for failure to timely submit corrected formal drawings as required by the Notice of Allowability, mailed on August 24, 2001, which set a non-extendable 3-month period for reply. No response was filed on or before November 26, 2001 (Monday). The application became abandoned on November 25, 2001.[1]

The instant petition contains a set of formal drawings in reply to the Notice of Allowability, the $1,280 petition fee, and a statement that the entire delay in filing the drawings from their due date until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The petition is thus granted.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] 37 CFR 1.136(c)(2), 1.135(a). A 3-month period from 8/24/01 ended on 11/24/01, a Saturday. Under 37 CFR 1.7(a), submission of corrected formal drawings on or before the next business day, 11/26/01, would have been considered "timely." However, failure to do so on or before 11/26/01 renders the application abandoned as of 11/25/01.

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)
6087430	2000-07-11	08729032	1996-10-09	

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	/Dennis Clarke/	Date (YYYY-MM-DD)	2008-09-09
Name	Dennis Clarke	Registration Number	22549

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. 6087430
Issue Date: July 11,2000
Application No. 08729032
Filed: October 9,1996
Attorney Docket No. 5168

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

This is a decision on the electronic petition, filed September 9,2008 ,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 September 9,2008 . 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Patent No. LEE ET AL.
Appl No.: 08/729,343
Filed: October 16, 1996

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed 12/4/98 to correct inventorship under 37 CFR 1.324.

The petition is granted.

Gary Kunz
Supervisory Patent Examiner
Art Unit 1616
Technology Center 1600

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

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)
5714758	1998-02-03	08731156	1996-10-10	

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	/ michael w. landry /	Date (YYYY-MM-DD)	2007-03-12
Name	Michael W. Landry	Registration Number	38216

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. 5714758
Issue Date: February 3,1998
Application No. 08731156
Filed: October 10,1996
Attorney Docket No. 11155

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

This is a decision on the electronic petition, filed March 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 March 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

6-8-09

Patent No. :7,049,424
Ser. No. : 08/731,499
Inventor(s) : Gray, et. al.
Issued : May 23, 2006

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

Emily M. Haliday
Weaver Austin Villeneuve & Sampson
P. O. Box 70250
Oakland, CA 94612-0250

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

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

COPY MAILED

OCT 0 4 2004

OFFICE OF PETITIONS

In re Application of :
Toshihiko Hibino et al :
Application No. 08/731,566 : NOTICE
Filed: October 16, 1996 :
Attorney Docket No. MGP-040CP :

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 Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

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

Paper No.

MARGO MADDUX
GREENBERG TRAURIG
2450 COLORADO AVENUE
SUITE 400 E
SANTA MONICA, CA 90404

COPY MAILED

AUG 2 6 2005

OFFICE OF PETITIONS

In re Patent No. 6,028,936 :
Issue Date: February 22, 2000 :
Application No. 08/731,569 : ON PETITION
Filed: January 16, 1996 :
Patentee(s): W. Daniel Hillis :

This is a decision on the petition under 37 CFR 1.378(c), filed July 12, 2005, 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.

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.

Petitioner will not receive future correspondence related to maintenance fees for the above-identified patent unless a "fee address" indication form is submitted for the above-identified patent.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

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

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)
5798658	1998-08-25	08732209	1996-10-16	WERKX 100 CONT

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	/Frank H. Foster/	Date (YYYY-MM-DD)	2007-08-13
Name	Frank H. Foster	Registration Number	24560

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. 5798658
Issue Date: August 25,1998
Application No. 08732209
Filed: October 16,1996
Attorney Docket No. WER-100-CONT

:
: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.

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)
5772393	1998-06-30	08732925	1996-10-17	ID 035807

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)	2007-06-26
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.**

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.

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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. 5772393
Issue Date: June 30,1998
Application No. 08732925
Filed: October 17,1996
Attorney Docket No. 96155

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

This is a decision on the electronic petition, filed June 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 June 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.

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)
5832556	1998-11-10	08733440	1996-10-18	E1089/10008

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	/Martin L. Faigus/	Date (YYYY-MM-DD)	2008-09-09
Name	Martin L. Faigus	Registration Number	24364

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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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. 5832556
Issue Date: November 10,1998
Application No. 08733440
Filed: October 18,1996
Attorney Docket No. E1089/10008

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

This is a decision on the electronic petition, filed September 9,2008 ,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 September 9,2008 . 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

Mailed Paper No. 22

JAN 19 2000

Director's Office
Group 2700

WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE , CA 95113

In re Application of:
Eric C. Anderson, et al.
Application No.: 08/735,705
Filed: October 23, 1996
For: SYSTEM AND METHOD FOR CORRELATING PROCESSING DATA AND IMAGE DATA WITHIN A DIGITAL CAMERA DEVICE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 10, 1999.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

cc: FLASHPOINTE TECHNOLOGY, INC.
152 North 3rd Street, Suite 800
San Jose, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MCGLEW AND TUTTLE
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-0827

COPY MAILED

NOV 14 2006

OFFICE OF PETITIONS

In re Patent of	:	
Fukuda et al.	:	
Patent No. 5,811,907	:	
Application No. 08/735712	:	
Filing or 371(c) Date: 10/23/1996	:	ON PETITION
Issue Date: 09/22/1998	:	
Title of Invention:	:	
SMALL GENERATOR	:	

This is a decision on the petition under 37 CFR § 1.378(c), filed October 25, 2006, to reinstate the above-identified patent.

The petition is **GRANTED**.

The patent issued September 22, 1998. The grace period for paying the seven and one-half (7½) year maintenance fee expired on September 22, 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.

The file is being forwarded to the files repository.

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

Derek L. Woods
Attorney
Office of Petitions

ATTORNEY DOCKET NO: 52726

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor : Fukuda
Serial No : 08/735,712
Filed : 10/23/96
For : SMALL GENERATOR
Patent No. : 5,811,907
Dated : 09/22/98

VIA FACSIMILE ONLY
Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231
Box DAC

RECEIVED
OCT 25 2006
OFFICE OF PETITIONS

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

Sir:

The information as to U.S. Patent 5,811,907 is as follows:

(X) original issue date - September 22, 1998

(X) application number - 08/735,712

(X) original filing date - October 23, 1996.

1. MAINTENANCE FEE (37 CFR 1.29(e)-(g))

The appropriate maintenance fee is submitted with this petition as follows:

Amount	Yr	Fee (Code)
$ 2,300	7.5 year	(1552)

MAINTENANCE FEE BEING SUBMITTED $ 2,300.00

10/19/2006 GHINTON 00000188 5811907

01 FC:1552 2300.00 OP
02 FC:1558 1640.00 OP

PAGE 1/4 * RCVD AT 10/18/2006 9:08:00 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/22 * DNIS:2736500 * CSID:9149415855 * DURATION (mm-ss):02-02

2. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $1,640.00 (Fee Code 1558)is submitted with this petition.

SURCHARGE BEING SUBMITTED $1,640.00

3. MANNER OF PAYMENT

(X) Enclosed is a Credit Card Payment Form in the amount of $ 3,940.00

4. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

(X) The Commissioner is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to the McGlew and Tuttle Deposit Account Number 13-0410. A duplicate copy of this authorization is attached.

7. OVERPAYMENT

As to any overpayment made please:

(X) Credit to the McGlew and Tuttle Deposit Account Number 13-0410.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER REQUESTS THAT THE DELAY PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

The undersigned declares that the following statements made of his own knowledge are true, and that these statements made on information and belief are believed

PAGE 2/4 * RCVD AT 10/18/2006 9:08:00 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/22 * DNIS:2736500 * CSID:9149415855 * DURATION (mm-ss):02-02

to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patent.

Respectfully submitted
for Petitioner,

By: _____
John James McGlew
Registration No. 31,903
McGLEW AND TUTTLE, P.C.

JJM:jj/erm

Attached: Credit Card Payment Form
19849.mf

DATED: October 18, 2006
SCARBOROUGH STATION
SCARBOROUGH, NEW YORK 10510-0827
(914) 941-5600

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.

CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY THAT THIS PAPER FOR PATENT #5,811,907 (4 PAGES IN ALL) IS BEING FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE FACSIMILE NUMBER 571-273-6500 ON THE DATE SHOWN BELOW.

Eloisa Medalla
NAME OF PERSON SIGNING CERTIFICATION

_____
SIGNATURE

DATED: October 18, 2006

McGLEW AND TUTTLE, P.C.
BOX 9227 SCARBOROUGH STATION
SCARBOROUGH, NEW YORK 10510-9227
TELEPHONE: (914) 941-5600
FACSIMILE: (914) 941-5855

PAGE 3/4 * RCVD AT 10/18/2006 9:08:00 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/22 * DNIS:2736500 * CSID:9149415855 * DURATION (mm-ss):02-02

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Form Factor, Inc.
Legal Department
7005 Southfront Road
Livermore CA 94551

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Khandros, et al. : DECISION
Application No. 08/735,816 : ON PETITION
Filed: October 21, 1996 :
Attorney Docket No. P2D9-US :
For: PROBE FOR SEMICONDUCTOR DEVICES

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005 (certificate of mailing date January 24, 2005), 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)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due, mailed July 12, 2004, which set a non-extendable three month period for reply. The application became abandoned on October 13, 2004. A Notice of Abandonment was mailed on November 22, 2004.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed;

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

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

is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (1) above.

Petitioner is reminded that in an application abandoned for failure to pay the issue fee, the required reply must include payment of the issue fee. MPEP 711.03(c). 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee.

Therefore, the RCE and IDS alone is not an acceptable reply. Please keep in mind that the required issue fee payment may be reapplied to any future issue fee due, if petitioner requests it.

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: (703) 872-9306 – ATTN: Office of Petitions

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

/ E. Shirene Willis /

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
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OFFICE OF PETITIONS

In re Application of :
Khandros, et al. : DECISION
Application No. 08/735,816 : ON PETITION
Filed: October 21, 1996 :
Attorney Docket No. P2D9-US :
For: PROBE FOR SEMICONDUCTOR DEVICES

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed May 9, 2005 (certificate of mailing date May 6, 2005), to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due, mailed July 12, 2004, which set a non-extendable three month period for reply. The application became abandoned on October 13, 2004. A Notice of Abandonment was mailed on November 22, 2004.

Applicants have submitted a reply in the form of the issue fee, RCE and IDS, an acceptable statement of the unintentional nature of the delay in responding to the July 12, 2004 Notice of Allowance and Fee(s) Due, and the petition fee.

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

Regarding finances, petitioners were charged two petition fees and two RCE filing fees. Pursuant to petitioners' authorization, deposit account no. 50-0285 will be credited one of the two $790.00 RCE fees and one of the two $1,500.00 petition fees.

After the mailing of this decision the application will be returned to Technology Center 2829 for further examination.

Telephone inquiries concerning this decision should 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
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Paper No. 44

3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55133-3427

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OFFICE OF PETITIONS

In re Application of	:	
Sherman et al.	:	
Application No. 08/735,836	:	ON PETITION
Filed: October 23, 1996	:	
Attorney Docket No. 52793US002	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 23, 2003, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of AFFIRMED by the Board of Patent Appeals and Interferences mailed on April 23, 2003. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the-above-identified application became abandoned on June 24, 2003. See MPEP 1214.06. A Notice of Abandonment was mailed on July 22, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

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P.O. BOX 1450
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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OCT 12 2005

OFFICE OF PETITIONS

In re Application of :
Apple et al. : Decision on Petition for
Application No. 08/736,143 : Patent Term Extension
Filing Date: October 28, 1996 :
For: MEDIA WALL FOR DISPLAYING :
FINANCIAL INFORMATION :

The above-identified application has been forwarded to the undersigned for consideration on the "Petition For Patent Term Extension Pursuant To 37 CFR 1.181," which was received on September 2, 2005 requesting a patent term extension of 1,183 days. See 35 U.S.C. § 154(b)[1] and 37 C.F.R. § 1.701.

The petition under 37 CFR 1.182 and 37 CFR 1.181 is granted.

Petitioner notes that the Notice of Allowance dated June 9, 2005, in the above-identified application did not indicate a patent term extension. The above-identified application was filed on October 28, 1996 and a Notice of Appeal was filed on August 24, 2001. On November 18, 2004, 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. Petitioner argues that because the pendency will be greater than three years, there should be patent term extension under 35 U.S.C. 154 and 37 CFR 1.701. Petitioner argues that due to the successful appeal, there should be a patent term extension 1,183 days.

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.

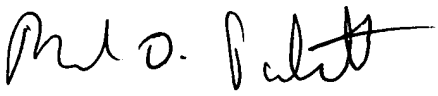
A Notice of Appeal was filed in the above-identified application on August 24, 2001; the Notice of Appeal was reinstated on June 7, 2002. On November 19, 2004, a panel of the Board of Patent Appeals

[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.

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.[2] The period of delay in the above-identified application is the period beginning on August 24, 2001, the date that the Notice of Appeal was first filed and ending on November 19, 2004, 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 October 28, 1999. 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 period of extension is 1,184 days, the period from August 24, 2001 to November 19, 2004 including the beginning and end dates.

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 **1,184 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

[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).

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
Apple et al.
Application No. 08/736,143
Filed: October 28, 1996
Attorney Docket No. 03294.0027-0

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed July 11, 1997, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on October 28, 1996, without an executed oath or declaration. Accordingly, on January 14, 1997, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of March 14, 1997.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a four (4) month extension of time was also submitted.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that inventor Footen was ever presented

with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The petition and declaration in support of the petition indicates only the declaration pursuant to 37 CFR 1.63 was presented. To the extent the application papers (specification, including claims, drawings, and oath or declaration) were presented to the inventor, a statement to that effect should be provided. 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
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision 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
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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of

Thomas Apple, Paul Noble, John Footen and Andrew Klein :

Application No. 08/736,143 : DECISION GRANTING

Filed: October 28, 1996 : PETITION UNDER 37 CFR 1.47(A)

Attorney Docket No. 03294.0027-0 :

Title of Invention: Media Wall for Displaying Financial Information :

This is in response to the renewed petition under 37 CFR 1.47(a) filed February 27, 2006.

Petitioner has shown that non-signing inventor Footen has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status.

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

After this decision is mailed, the application will be forwarded to the Office of Patent Publication for further processing.

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

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
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John Footen
117 Schmitz Terrace
Mt Arlington, NJ07856

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OFFICE OF PETITIONS

In re Application of
Thomas Apple, Paul Noble, John Footen and Andrew Klein
Application No. 08/736,143
Filed: October 28, 1996
Attorney Docket No. 03294.0027-0
Title of Invention: Media Wall for Displaying Financial Information

LETTER

Dear Mr. Footen :

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022
ATTN: DENIS G. MALONEY

cc: 69 Freedom Terrace, Easton, PA 18045

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)
5,874,361	1999-02-23	08/736,456	1996-10-24	APPM0896-D1

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	/ Mimi-Diemmy Dao /	Date (YYYY-MM-DD)	2007-08-31
Name	Mimi-Diemmy Dao	Registration Number	45628

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
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In re Patent No. 5874361
Issue Date: February 23,1999
Application No. 08736456
Filed: October 24,1996
Attorney Docket No. 896-D1

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

This is a decision on the electronic petition, filed August 31,2007 ,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 31,2007 . 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
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ALEXANDRIA, VA 22313-1450
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Paper No. 19

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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DEC 19 2006

OFFICE OF PETITIONS

In re Application of :
Masayuki Nishiguchi et al. :
Application No. 08/736,546 : DECISION ON PETITION
Filed: October 24, 1996 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: :
7217/51887 :
Title: METHOD AND APPARATUS FOR :
SPEECH ENCODING AND DECODING BY :
SINUSOIDAL ANALYSIS AND :
WAVEFORM ENCODING WITH PHASE :
REPRODUCIBILITY :

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on June 22, 2006.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 28, 1998, which set a shortened statutory period for reply of three months (it is noted that the issue fee was received on December 28, 1998,

1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

along with a certificate of mailing dated December 23, 1998). The formal drawings were received on May 15, 2000, along with a certificate of mailing dated May 12, 2000. No extensions of time are permitted for transmitting formal drawings[2]. Accordingly, the above-identified application became abandoned on December 29, 1998. A Notice of Abandonment was mailed on March 31, 2000.

More than six years later, the present petition was filed, along with the petition fee and a statement of facts. The petition indicates that a "copy of a letter dated May 30, 2006, from Fumihiko Moriya[3]" has been enclosed, however a copy of this letter has not been located in the file.

Petitioner has met the first and second requirements of Rule §1.137(b). The fourth requirement is not applicable.

Regarding the third requirement, Petitioner has not established that the entire period of delay was unintentional. It is noted that more than six years passed between the mailing of the notice of abandonment and the filing of the present petition.

Petitioner asserts that "on or about December 9, 2005[4]," Applicant requested the law firm of Cooper and Dunham to transfer the present file to Petitioner's law firm. The present application was not filed until June 22, 2006. It is not clear why a registered practitioner would wait more than six months after the file was requested before filing the formal drawings.

It is not clear why both the Applicant and former counsel chose to take no course of action for such a long period of time. It does not appear that either the Applicant or any member of Cooper and Dunham took any action to further the prosecution of this application. It seems that it would be unreasonable for either an applicant or their representative to submit formal drawings, and after not receiving any correspondence from the Office on the matter for 6 years, not realize that something had gone amiss.

It is equally unclear what, after all of this time, prompted the Applicant to advance the prosecution of this application.

As such, it appears that both the Applicant and his attorney(s) intentionally allowed this application to go abandoned.

---

2 See MPEP §710.02(e).
3 Petition, page 2.
4 Id.

The extended inaction of the members of Cooper and Dunham, the Applicant, and current counsel appears to be intentional, and Petitioner does not appear to have submitted a statement of facts from any member of Cooper and Dunham or the Applicant which would assert a contrary position.

A discussion follows.

In order for a petition under 37 C.F.R. §1.137(b) to be granted, the holder of the rights to the application must have unintentionally allowed the application to go abandoned, and a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 C.F.R. §1.137(b).

The periods of delay:

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

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 C.F.R. §1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 C.F.R. §1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1), (2), or (3).

As to Period (1), the patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay of more than six years in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment. That party, in turn must explain what effort(s) was made to reply to the outstanding Office action and further, why no reply was filed. If no effort was made to reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as the law firm of Cooper and Dunham was counsel of record at the date of abandonment, Cooper and Dunham should explain why this application became abandoned while it was under their control and what efforts Cooper and Dunham made to submit the formal drawings, and with whom this matter was discussed outside of Cooper and Dunham. Copies of any correspondence relating to the filing, or to not filing of formal drawings are required from responsible person(s) such as Jay Maioli, other members of Cooper and Dunham, and whomever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Cooper and Dunham, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action (such as Mr. Maioli). As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v.

Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished)(patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

Petitioner has set forth that the "previous attorney, Jay H. Maioli, is no longer employed with the firm of Cooper and Dunham LLP and therefore is not available to provide any further information[5]." However, it does not appear that Petitioner has made any effort to contact this individual in order to seek the obtainment of a statement of facts from the same. Furthermore, it is not clear why Mr. Maioli is the only individual who could provide information pertaining to Cooper and Dunham's inaction.

As to Period (2), where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 C.F.R. §1.137(b)[6].

The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997),

5 Petition, page 2.
6 See MPEP 711.03(c).

which clearly stated clear that any protracted delay (here, six years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Cooper and Dunham, and the responsible person(s) (such as Mr. Maioli) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As to Period (3), it is not clear when the present law firm of record received the present file. Petitioner has set forth that "upon receipt of the file, the undersigned attorneys promptly reviewed the file and determined that he application had been abandoned[7]." It is noted that the Applicant requested Cooper and Dunham to transfer the file to Petitioner on or about December 9, 2005, and that the present petition was not filed until more than six months later - before it can be determined if the present law firm of record acted in a diligent manner, it must first be revealed when the present law firm of record received the file.

Punctuality and Due Diligence:

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

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7 Petition, page 1.

The lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

On renewed petition, Petitioner will need to address each of these issues, if it is to be established that the entire period of delay was not intentional.

Petitioner is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

Pursuant to the discussion above, the petition is **DISMISSED**.

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

Thereafter, there will be no further reconsideration of this matter[8, 9].

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[10], hand-delivery[11], or facsimile[12].

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8 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

9 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

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

11 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

12 (571) 273-8300- please note this is a central facsimile number.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[13]. 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

13 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 20

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Masayuki Nishiguchi et al. :
Application No. 08/736,546 : DECISION ON RENEWED PETITION
Filed: October 24, 1996 : PURSUANT TO
Attorney Docket Number: : 37 C.F.R. § 1.137(B)
7217/51887 :
Title: METHOD AND APPARATUS FOR :
SPEECH ENCODING AND DECODING BY :
SINUSOIDAL ANALYSIS AND :
WAVEFORM ENCODING WITH PHASE :
REPRODUCIBILITY :

This is a decision on the renewed petition, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on May 25, 2007.

This renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed September 28, 1998, which set a shortened statutory period for reply of three months (it is noted that the issue fee was received on December 28, 1998, along with a certificate of mailing dated December 23, 1998). The formal drawings were received on May 15, 2000, along with a certificate of mailing dated May 12, 2000. No extensions of time were received. Accordingly, the above-identified application became abandoned on March 29, 1999. A Notice of Abandonment was mailed on March 31, 2000.

More than six years later, an original petition was filed on June 22, 2006. The original petition was dismissed via the mailing of a decision on December 19, 2006.

With this renewed petition, Petitioner has submitted several declarations of facts, a plurality of exhibits, and a three-month extension of time so as to make timely this response[1].

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable, as no terminal disclaimer is required.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[2] All other

1 It is noted that this renewed petition contains a certificate of mailing dated May 21, 2007, and that May 19, 2007 fell on a Saturday.

inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Anthony Knight
Supervisor
Office of Petitions

2 It will be noted that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE 14TH FL
BOSTON MA 02110

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MAY 25 2006

OFFICE OF PETITIONS

In re Application of
Lu et al.
Application No. 08/736,707
Patent: 5,841,095
Filed: October 28, 1996
Issued: November 24, 1998
Attorney Docket Number: HYP-035

: NOTICE

This is a notice regarding your request filed on March 17, 2006.

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

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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SIM & MCBUMEY
330 UNIVERSITY AVENUE
TORONTO, ONTARIO
M5G 1R7 CANADA

AIRMAIL

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AUG 2 0 2004

OFFICE OF PETITIONS

In re Application of	:	
John Dupre	:	
Application No. 08/737,446	:	ON PETITION
Filed: January 10, 1997	:	
Attorney Docket No. 223/051	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2004 and supplemented on July 14, 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 March 25, 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 June 26, 2003.

Pursuant to petitioner's authorization, Deposit Account No. 19-2253 was charged $665.00 for the petition to revive an unintentionally abandoned application.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

This matter is being referred to Technology Center AU 1644.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 44

Orrin M. Haugen
Haugen and Nikolai
820 International Centre
900 Second Avenue South
Minneapolis, MN 55402-3325

COPY MAILED

APR 0 9 2004

OFFICE OF PETITIONS

In re Application of :
Cardy et al. :
Application No. 08/737,457 : ON PETITION
Filed: March 12, 1997 :
Attorney Docket No. 960670.CNC :

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and /or Amino Acid Sequence Disclosures mailed January 13, 2003. The Notice set a period for reply of (30) Thirty Days from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 14, 2003.

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

Item (1), The reply filed March 1, 2004 fails to comply with the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed January 13, 2003. Accordingly, this application cannot be revived until a complete reply has been submitted.

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

By mail:	Mail Stop Petitions Box DAC Washington, D.C. 20231
By facsimile:	(703) 872-9306 Attn: Office of Petitions
By hand:	2201 South Clark Place Crystal Plaza 2, Lobby Room 1B03 Arlington, VA 22202

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

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MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Donald Leonard Nicholas Cardy et al. :
Application No. 08/737,457 : ON PETITION
Filed: March 12, 1997 :
Attorney Docket No. 960670.ORI :

This is a decision on the renewed petition, filed July 9, 2004, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 14, 2003, for failure to timely respond to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, mailed January 13, 2003. The Notice set a 30 day period for reply. Accordingly, a Notice of Abandonment was mailed September 15, 2004. A petition filed March 1, 2004 was dismissed in a decision mailed April 9, 2004 because it lacked the required reply.

---

[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(c)).

Comes now petitioner with the instant renewed petition, a request for a one month extension of time, a paper copy and a substitute CRF copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing, in compliance with 37 CFR 1.821(e), (f), (g), 1.825(b), or (d), a statement that the submission includes no new matter and one sheet of drawings containing Figure 10.

Additionally, this is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 also filed with the July 9, 2004 renewed petition.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission in the amount of $1955.00 on July 9, 2004, under 37 CFR 1.28 is hereby **ACCEPTED**. However, petitioner is ultimately responsible for ensuring that the correct fee is paid.

Small entity status will no longer apply.

This matter is being referred to Technology Center 1644 for further examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-25-04

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction on Patent No.: 6,265,635

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.

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

1638
Art Unit

UNITED STATES
PATENT AND
TRADEMARK OFFICE

FEB - 5 2002

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

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109-1784

#36

In re Application of	:	
Irwin J. Griffith et al.	:	
Serial No.: 08/737,904	:	WITHDRAWAL OF ABANDONMENT
Filed: November 20, 1996	:	
Attorney Docket No.: IMI-040CP3 (075.1	:	
U.S.)	:	

This is in response to applicants' petition under 37 CFR 1.181, filed September 27, 2001, requesting withdrawal of the holding of abandonment based on the filing of a timely response to the Office action mailed January 22, 2001.

A review of the file history shows that the examiner mailed an Office action (Notice to Comply With Sequence Rules) to applicant on January 22, 2001, setting a one month shortened statutory time period for reply. On August 8, 2001, the examiner mailed a Notice of Abandonment to applicant indicating no response to the Office action had been received.

Applicant states that a reply to the Office action, including a request for a one month extension of time and a check for $110, was filed on March 22, 2001, as evidenced by the properly executed Certificate of Mailing on the reply. Applicant provides a copy of the submitted reply with the petition. A review of USPTO records reveals that the $110 fee was processed on March 26, 2001 and the computer readable form of the sequence listing was entered into the USPTO computer database on November 5, 2001. In view of this evidence, applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED.** The application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for further consideration.

Should there be any questions with regard to this letter please contact Bruce Campell by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-4205 or by facsimile transmission at (703) 746-5006.

Bruce Kisliuk
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)
6154468	2000-11-28	08738988	1996-10-24	

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

	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.

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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. 6154468
Issue Date: November 28,2000
Application No. 08738988
Filed: October 24,1996
Attorney Docket No. PHA-23.163

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

This is a decision on the electronic petition, filed May 27,2009 ,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 May 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1-30-08 Paper No.: ____

TO SPE OF : ART UNIT 2684

SUBJECT : Request for Certificate of Correction on Patent No.: 6473602

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.

Please Reply ASAP

E. J. Jones

Thank You For Your Assistance

Certificates of Correction Branch 124
Tel. No. 703-308-9390 ext. ~~[illegible]~~

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

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)
5931772	1999-08-03	08740474	1996-10-30	

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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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

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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	/wab/	Date (YYYY-MM-DD)	2007-08-22
Name	William A. Blake	Registration Number	30548

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. 5931772
Issue Date: August 3,1999
Application No. 08740474
Filed: October 30,1996
Attorney Docket No. KAISER03/96

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

This is a decision on the electronic petition, filed August 22,2007 ,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 22,2007 . 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)
5653957	1997-08-05	08740693	1996-11-01	BSA 96-25

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)
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◯	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	/Dorene M. Price/	Date (YYYY-MM-DD)	2009-12-10
Name	Dorene M. Price	Registration Number	43018

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. 5653957
Issue Date: August 5,1997
Application No. 08740693
Filed: November 1,1996
Attorney Docket No. AU1-96-25

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

This is a decision on the electronic petition, filed December 10,2009 ,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 10,2009 . 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.

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)
5934036	1999-08-10	08740696	1996-11-01	

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		
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◯	3 ½ year	(1551)	◯	3 ½ year	(2551)
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◯	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

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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	/Kent A. Lembke/	Date (YYYY-MM-DD)	2008-06-23
Name	Kent A. Lembke	Registration Number	44866

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. 5934036
Issue Date: August 10,1999
Application No. 08740696
Filed: November 1,1996
Attorney Docket No. 53-95

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

This is a decision on the electronic petition, filed June 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 June 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 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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DEC 22 2004

JASON A. BERNSTEIN
POWELL, GOLDSTEIN, FRAZER & MURPHY LLP
16TH FLOOR
191 PEACHTREE STREET, NE
ATLANTA GA 30303-1736

In re Application of:
D'Souza et al.
Serial No.: 08/740,755
Filed: November 1, 1996
Attorney Docket No.: 0403-1-013A

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181 filed on June 17, 2004, requesting withdrawal of the holding of abandonment based on non-receipt of an Office action and to restore the application to a pending status.

A review of the file history shows that the Office mailed a Notice of Allowability, setting a three-month shortened statutory period for reply to applicants on December 24, 2002; and mailed a Notice of Allowance and Issue Fee Due, setting a three-month statutory period for reply to applicants on January 13, 2003. On May 20, 2003, the examiner mailed a Notice of Abandonment indicating that the issue fee had not been paid. A review of the file history shows that there was a discrepancy between the customer number in the Patent Office system and that provided as applicants' customer number. As a result of this, the Office actions went to the incorrect address. In view of this error, the Notice of Abandonment mailed May 20, 2003, is vacated and the application is restored to pending status with the mailing date of this decision.

Applicants' petition is **GRANTED**. The application will be forwarded to the examiner for prompt mailing of a new Notice of Allowance and Issue Fee Due and the Notice of Allowability.

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 /jc

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 2 1 2010

OFFICE OF PETITIONS

HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

In re Patent No. 7,427,492
Issued: September 23, 2008
Application No. 08/741,095
Filed: October 30, 1996
Dkt. No.: 1488.0770004

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on November 24, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 2,321 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The correct period of adjustment under 37 CFR 1.702(a) is 1,997 days (adjustment under 37 CFR 1.703(a) of 2,174 + adjustment under 37 CFR 1.703(b) of 1,856 – 27 days of applicant delay under 37 CFR 1.704 – 1,682 overlapping days under 37 CFR 1.703(f) – 324 days under 37 CFR 1.703(c)(1)).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,997 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,427,492

DATED : **September 23, 2008** **DRAFT**

INVENTOR(S) : Ni, 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 2,299 days

Delete the phrase "by 2,299 days" and insert – by 1,997 days--

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)
5783301	1998-07-21	08/741,416	1996-10-29	74709RLO

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	/Raymond L. Owens/	Date (YYYY-MM-DD)	2007-12-03
Name	Raymond L. Owens	Registration Number	22363

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. 5783301
Issue Date: July 21,1998
Application No. 08741416
Filed: October 29,1996
Attorney Docket No. 74709RLO

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

This is a decision on the electronic petition, filed December 3,2007 ,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 3,2007 . 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.

NOTICE RE: CERTIFICATES OF CORRECTION

Paper No. _____

DATE : 9-24-01

TO : Supervisor, Art Unit 1712

SUBJECT : Certificate of Correction Request in Patent No. 5,716,705

A response to the following question(s) is requested with respect to the accompanying request for a certificate of correction.

EXPEDITE

☐ 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?

☑ 4. With respect to the change(s) requested, correcting Office errors, should the patent read as shown in the certificate of correction? Look purple tabs clearly mistake need EX signature

☐ 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 ROOM 809, PKI

Patent Assistant

TO: CERTIFICATES 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	☐ NO	☐ Comments below
5.	☐ YES	☐ NO	☐ Comments below

PUBLISH

☐ Comments _____

Approved

OLIK CHAUDHURI OC
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Supervisor *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. 14

STEVEN P WEINSTOCK
ABBOTT LABORATORIES
D-377/AP6D
100 ABBOTT PARK ROAD
ABBOTT PARK, IL 60064-3500

COPY MAILED

JUN 15 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Gregory T. Maine et al.
Application No. 08/742,619
Filed: November 1, 1996
Attorney Docket No. 5742.US.O2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 2000, 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 February 10, 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 August 11, 1998.

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 above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on May 22, 2000.

The filing of a terminal disclaimer is unnecessary as a condition for revival pursuant to the provisions of 37 CFR 1.137(b) under the current rules. Therefore, the terminal disclaimer filed with the petition will not be processed and the fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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

ABBOTT LABORATORIES
DEPT. 377 - AP6D-2
100 ABBOTT PARK ROAD
ABBOTT PARK, IL 60064-6050

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DEC 2 8 2001

OFFICE OF PETITIONS

In re Application of :
Gregory T. Maine et al :
Application No. 08/742,619 : ON PETITION
Filed: November 1, 1996 :
Attorney Docket No. ,5872.US-O2 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2001, 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 February 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 May 9, 2001.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on December 14, 2001.

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

The application file is being forwarded to Technology Center 1645 for further processing.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 14 2004

#36

STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

In re Application of	:
Gregory T. Maine et al	:
Serial No.: 08/742,619	: PETITION DECISION
Filed: November 1, 1996	:
Attorney Docket No.: 5742.US.02	:

This is in response to the petition under 37 CFR 1.181, filed December 3, 2003, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on January 13, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed September 25, 2003. Applicants state that a reply was submitted on June 16, 2003 (Certificate of Mailing dated June 11, 1003), including a request and fee for a two month extension of time. The original reply has now been located and entered in the file. In view of applicants' timely reply the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jasemine C. Chambers
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

Brumbaugh Graves Donohue & Raymond
30 Rockefeller Plaza
New York, NY 10112

COPY MAILED

NOV 2 1 2008

OFFICE OF PETITIONS

In re Application of :
Dieter Wieser et al. :
Application No. 08/742,813 : DECISION ON PETITION
Filed: November 1, 1996 : TO WITHDRAW
Attorney Docket No. A30778-256/3 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 10, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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)
5801809	1998-09-01	08743701	1996-11-06	0701082-001

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	/mark david torche/	Date (YYYY-MM-DD)	2008-02-19
Name	Mark David Torche	Registration Number	45823

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.

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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. 5801809
Issue Date: September 1,1998
Application No. 08743701
Filed: November 6,1996
Attorney Docket No. 60.259-001

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

This is a decision on the electronic petition, filed February 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 February 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 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.

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)
5772237	1998-06-30	08744204	1996-11-05	1031.08

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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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. 5772237
Issue Date: June 30,1998
Application No. 08744204
Filed: November 5,1996
Attorney Docket No. 20261.8

:
: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 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.
08/744,983	11/07/1996	ALBERT BEAUFOUR	00537/152001	5744

7590 12/03/2003

BRIAN R. MORRILL, ESQ.
BIOMEASURE INCORPORATED
27 MAPLE STREET
MILFORD, MA 01757-3650

EXAMINER	
SISSON, BRADLEY L.	

ART UNIT	PAPER NUMBER
1634	

DATE MAILED: 12/03/2003

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

OCT - 9 2003

BRIAN R. MORRILL, ESQ.
BIOMEASURE INCORPORATED
27 MAPLE STREET
MA 01757-3650

In re Application of	:
Albert Beaufour et al	:
Serial No.: 08/744,983	: WITHDRAWAL OF ABANDONMENT
Filed: November 7, 1996	:
Attorney Docket No.: 00537-152001	:

This is in response to the petition under 37 CFR 1.181, filed June 18, 2003, requesting revival of the above-identified application based on timely reply to an Office action.

A review of the file history shows the examiner mailed an Office action to applicants on June 6, 2002, setting a three month shortened statutory time period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed to applicant on April 21, 2003. Applicant states that a reply was filed on September 5, 2002, and provides a copy of a reply with a properly executed Certificate of Mailing dated September 5, 2002. The original submission has not been located and the copy provided with the petition will be used in lieu thereof. In view of applicant's timely reply the Notice of Abandonment is withdrawn as having been mailed in error and the application is restored to a pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions regarding this decision, please contact William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

John Doll
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)
5722200	1998-03-03	08746233	1996-11-07	8402.207

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

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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.

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○ 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	/klhester/	Date (YYYY-MM-DD)	2010-03-15
Name	Kathryn L. Hester, Ph.D.	Registration Number	46768

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. 5722200
Issue Date: March 3,1998
Application No. 08746233
Filed: November 7,1996
Attorney Docket No. 8402.207

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

This is a decision on the electronic petition, filed March 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 March 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.

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)
5,997,688	1999-12-07	08/746,298	1996-11-08	PPE1-A50

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)
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◯	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

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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	/Karl M. Steins/	Date (YYYY-MM-DD)	2009-12-07
Name	Karl M. Steins	Registration Number	40186

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. 5997688
Issue Date: December 7,1999
Application No. 08746298
Filed: November 8,1996
Attorney Docket No. PPE1-A50

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

This is a decision on the electronic petition, filed December 7,2009 ,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 December 7,2009 . 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)
5690864	1997-11-25	08746299	1996-11-08	B-6011

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	/dvt/	Date (YYYY-MM-DD)	2010-01-19
Name	Daniel V. Thompson	Registration Number	29706

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).

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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
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P.O. Box 1450
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In re Patent No. 5690864
Issue Date: November 25,1997
Application No. 08746299
Filed: November 8,1996
Attorney Docket No. B-6011

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

#25

LEOPOLD PRESSER
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

(Attorney for Applicant)

COPY MAILED

FEB 25 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Ted Christopher :
Application No. 08/746,360 :
Filed: November 8, 1996 :
For: FINITE AMPLITUDE :
DISTORTION-BASED :
INHOMOGENEOUS PULSE ECHO :
ULTRASONIC IMAGING :

DECISION GRANTING PETITION
TO INSTITUTE PUBLIC USE PROCEEDINGS

On March 20, 1998, a petition to institute public use proceedings against the claims of the above-identified application has been considered in connection with two Examiner's reports dated November 6, 1998 and November 19, 1999, respectively. The Examiner's first report was previously sent as an attachment to the Notice mailed June 30, 1999. However, since this is an ex parte case, no copy of the Examiner's first report was sent to the petitioner. The Notice mailed June 30, 1999, set September 9, 1999, as the date for the preliminary hearing to determine whether a public use proceeding should be instituted.

On September 2, 1999, a petition was filed requesting that the Examiner reconsider the determination that a prima facie case had been made of the prior public use of the invention claimed in the application.

On September 9, 1999, the preliminary hearing was held.

In response, on September 14, 1999, a summary of the arguments presented at the preliminary hearing was submitted by applicant's attorney. Applicant argued, in part, that the Examiner should reconsider the determination that a prima facie case had been made of the prior public use of the invention claimed in the application.

In response, on September 20, 1999, a summary of the arguments presented at the preliminary hearing were submitted by petitioner's attorney. Petitioner argued, in part, that the present public use proceeding should be granted without reconsideration of the Examiner's findings.

As requested, the application was again forwarded to the Examiner for a second report including a reconsideration of his determination that a prima facie showing had been made. On reconsideration, the Examiner again determined that a prima facie showing had been made. Since this is an ex parte case, no copy of the Examiner's second report has been sent to petitioner.

In view of the above, the petition under 37 CFR 1.182, or in the alternative under 37 CFR 1.183 filed September 2, 1999, requesting that the Examiner reconsider his determination that a prima facie case had been made of the prior public use of the invention claimed in the application is dismissed as moot.

It appears that the showing made in the petition to institute public use proceedings filed March 20, 1998, is sufficient to justify the institution of a public use proceeding. The application is accordingly referred to the Examiner of Technology Center Art Unit 3737 who will set a schedule of times for taking testimony and conduct the proceeding. See MPEP 720.04 and 720.05. Other proceedings in connection with this application are otherwise suspended.

The petition to institute public use proceedings is granted.

Petitioners' copy of this "Decision" has been edited to delete the application number, filing date, name of applicant and the title of the invention.

Charles Pearson
Patent Legal Administrator
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

fas

Enclosure: Copy of Examiner's second report

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

BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

(Attorney for Petitioner)

COPY MAILED

FEB 2 5 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
[ ] :
Application No. [ ] : DECISION GRANTING PETITION
Filed: [ ] : TO INSTITUTE PUBLIC USE PROCEEDINGS
For: [ ] :

On March 20, 1998, a petition to institute public use proceedings against the claims of an application identified by petitioner as application No. 08/746,360 has been considered in connection with two Examiner's reports. The Examiner's first report was previously sent to the applicants. However, since this is an ex parte case, no copy of the Examiner's first report was sent to the petitioner. The Notice mailed June 30, 1999, set September 9, 1999, as the date for the preliminary hearing to determine whether a public use proceeding should be instituted.

On September 2, 1999, a petition was filed requesting that the Examiner reconsider the determination that a prima facie case had been made of the prior public use of the invention claimed in the application.

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It appears that the showing made in the petition to institute public use proceedings filed March 20, 1998, is sufficient to justify the institution of a public use proceeding. The application is accordingly referred to the Examiner of Technology Center Art Unit 3737 who will set a schedule of times for taking testimony and conduct the proceeding. See MPEP 720.04 and 720.05. Other proceedings in connection with this application are otherwise suspended.

The petition to institute public use proceedings is granted.

Petitioners' copy of this "Decision" has been edited to delete the application number, filing date, name of applicant and the title of the invention.

Charles Pearson
Patent Legal Administrator
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

fas

LEOPOLD PRESSER (Attorney for Applicant)
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

In re Application of	:	
Ted Christopher	:	**MEMORANDUM RE PETITION**
Serial No. 08/746,360	:	**UNDER 37 C.F.R. 1.182 OR 1.183**
Filed: November 8, 1996	:	**TO RECONSIDER DECISION TO**
For: Finite Amplitude Distortion-	:	**INSTITUTE PUBLIC USE PROCEEDING**
Based Inhomogenous Pulse-Echo	:	
Ultrasonic Imaging		

Reconsideration Decision Summary

The Petition under 37 C.F.R. 1.182 or, in the alternative under 37 C.F.R. 1.183 filed September 2, 1999 for the Examiner to reconsider the decision of November 6, 1998 that a prima facie case has been made of prior public use of the invention claimed in the application by the Petition For Public Use Proceedings filed March 20, 1998 is *denied.*

Reconsideration Decision Reasoning

The Petition argues that insofar as both independent method claim 2 and independent apparatus claim 13 respectively recite the step of and means for forming an image *principally* from one of the received higher order components of the reflected signal which has undergone finite amplitude distortion along the propagation path within the investigated tissue, the two public use circumstances alleged by the Public Use Petition Under 37 C.F.R. 1.292 which are stated to involve initial or baseline production of a discernible tissue harmonic image prior to injection of a harmonic-inducing contrast agent using a modified ultrasound scan imaging system adapted for harmonic contrast agent vascular scanning cannot suffice to support a prior public use finding for the invention since it does not inherently follow that these uses formed an image principally from the second harmonic but merely a measurable image therefrom and motivation is lacking to supplement the disclosure shortfall.

It may be recalled that the term *principally* was introduced into the base claims in the Amendment under 37 C.F.R. 1.116 filed June 18, 1998 to distinguish over harmonics generated at the scatterer such as contrast agent or endogenous vascular microbubbles. This term does not per se appear in the original specification or claims but was allowed entry as inherently pertaining in its context to a device such as applicant's which is designed and adapted to produce an harmonic image based on tissue non-linear distortion effects as opposed to other phenomena. Such a catchment does not disallow the relevance of the usages described by the Public Use Petition merely because that Petition's affidavits (for example the Chandler, Holley and Main affidavits) refer to visualization of tissue harmonics in the baseline image as having been 'seen' or ' present in at least a measurable part', since in the absence of a contrast agent injectate only the non-linearities of tissue as opposed to those of the transmit pulse or system would be spatially organized as to provide an image, begging the question as to what is principally visualized in the residuum when the contrast agent is not yet provided.

Additionally, an instance of identified public use under 35 USC 102(b) serves to define prior art

insofar as that which was in public use more than a year prior to the inventor's filing date becomes prior art for purposes of obviousness combination. The Examiner's understanding is that here, in this reconsideration decision context, he is not charged per se with combining art however insofar as the Reconsideration Petition argues against combinability of additional art in the manner of a rebuttal to an art rejection, the general response is made that when applicant's disclosure is reviewed to determine what principal technical features allow the Figure 1 system to be specially adapted to image tissue harmonics, the specification pages 6-8 indicates that the theoretical focussing or resolution-increasing advantages of tissue harmonic imaging can be achieved by adapting an ultrasound imaging system such that either (a) the returned signal is high-pass filtered to enhance its harmonic strength and remove the fundamental, or (b) the transmitted signal is stepped up in amplitude in a two-pulse scheme wherein the lower level signal is then subtracted to unmask the non-linear or harmonic effect from the linear reflection effect. Both techniques were heretofore known in relation to microbubble harmonic imaging, for example in the case of the former see **Williams** (WO 91/15999 made of record in Office action paper No. 11 mailed March 19, 1998) page 12 discussion of filtering within the signal processing unit; in the case of the latter see **Brock-Fisher** (US5577505, of record with the Supplemental IDS paper No. 8 filed September 25, 1997), col. 2 discussion of the two-pulse subtraction method and col. 2 line 50-60 note that the method yields both the microbubble contrast agent and tissue harmonics with differences in scale thereof. Hence a proper motivation exists to modify the Accuson system as used publicly by signal processor filtering and/or by two-pulse subtraction to enhance its structure and method of use for improving its harmonic sensitivity whereupon a question exists as to whether the public use disclosure of obtainance of a measurable tissue harmonic image renders the invention obvious in terms of refinements which might be practiced by those of ordinary skill soas to produce a 'large' or 'principally' tissue harmonic image versus a 'measurable' or observable'harmonic image in a baseline protocol where a contrast agent is not yet added.

Accordingly, the disclosed public use by the 37 C.F.R. 1.292 Petition is deemed sufficient to establish a prima facie case of public use of the claimed invention and the Reconsideration Petition is *denied.*

Francis J. Jaworski
Primary Examiner

FJJ:fjj
11-19-99

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GARDEN CITY NY 11530

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Christopher :
Application No. 08/746,360 : Decision on Petition for
Filing Date: November 8, 1996 : Patent Term Adjustment
For: FINITE AMPLITUDE DISTORTION- :
BASED INHOMOGENEOUS PULSE ECHO :
ULTRASONIC IMAGING

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term adjustment entitled "Petition For Patent Term Adjustment Under 37 CFR 1.705," received on September 19, 2005. In the alternative, the petition is being treated as a petition for corrected patent term extension under 37 CFR 1.701 and 37 CFR 1.181. See 35 U.S.C. § 154(b)[1] and 37 CFR § 1.701.

The petition under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.181 is dismissed.

Petitioner notes that the Notice of Allowance mailed on June 15, 2005, for the above-identified application did not contain an indication of paten term extension under 35 U.S.C. §154(b).

Petitioner contends that in accordance with 35 U.S.C. 154(b) as amended by the URAA and 37 CFR 1.701 the instant application is entitled to Patent Term Extension as compensation for the delay due to public use proceeding. Petitioner asserts that the public use proceedings are the equivalent of an interference in structure, conduct, intent and effect, therefore the application should be eligible for 1,117 days of patent term extension under the prior provisions of 35 U.S.C. 154(b).

Petitioner contends that in accordance with 35 U.S.C. 154(b) as amended by the PTGA and 37 CFR 1.705 the instant application is entitled to Patent Term Adjustment as compensation for the delay due to public use proceeding. Petitioner asserts that the public use proceedings are the equivalent of an interference in structure, conduct, intent and effect, therefore the application should be eligible for

[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.

2,241 days of patent term adjustment under the current provisions of 35 U.S.C. 154(b). Petitioner asserts that applications that were filed before but still pending on May 29, 2000 are eligible for patent term adjustment.

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 above-identified application was filed on November 8, 1996. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended 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 delays as set forth in the statute.

With respect to Petitioner's argument that patent term extension should be awarded to the above-identified application because a public use proceeding is analogous to an interference, both 35 U.S.C. 154(b) and 37 CFR 1.701(c)(1) require an interference proceeding under 35 U.S.C. 135(a) to be eligible for patent term extension. Public use proceedings are not listed as one of the enumerated statutory grounds for patent term extension in the statute.

With respect to petitioner's assertion that the application is alternatively entitled to patent term adjustment under 35 U.S.C. 154(b) as amended by the AIPA, the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Petitioner's argument that the statutory language "[S]hall apply to any application filed on or after the date that is 6 months after the date of the enactment of this Act" means that the provision also applies to applications filed prior to the date of enactment and still pending is not persuasive. Petitioner's interpretation of the statute is contrary to the plain meaning of the statute.

With respect to Petitioner's contention that it is not fair to deny the instant application a patent term extension or a patent term adjustment due to the delays in prosecution, the delay in the allowance and issuance is regrettable, but the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b). It is noted that Congress did not make the more generous patent term adjustment provisions in current 35 U.S.C. 154 retroactively available to the instant application. Since Congress failed to make the provisions applicable in the instant application, the Office cannot either.

After mailing of this decision, the above-identified application will be forwarded to the Office of Publications.

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 $200 fee for the petition under 37 CFR 1.705(b) has been charged to Petitioner's Deposit

Account (19-3886/RCT). The petition fee under 37 CFR 1.182 for "questions not specifically provided for" has not been charged to Petitioner's deposit account.

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

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)
5987145	1999-11-16	08746407	1996-11-08	

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	/JEFFREY C LAWTON/	Date (YYYY-MM-DD)	2008-01-27
Name	Jeffrey C. Lawton		

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. 5987145
Issue Date: November 16,1999
Application No. 08746407
Filed: November 8,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed January 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 January 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CRAIG J. ARNOLD
AMSTER ROTHSTEIN AND EBENSTEIN
90 PARK AVENUE
NEW YORK, NY 10016

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DEC 2 2 2004

OFFICE OF PETITIONS

In re Application of
Burns et al.
Application No. 08/746,635
Filed: November 13, 1996
Attorney Docket No. 96700/341

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 18, 2004, to change the order of the names of the inventors.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Edward R. Burns

2. Vadiraja Murthy

This matter is now being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (571) 272-3282.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Corrected Filing Receipt

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. 26

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

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APR 17 2001

**OFFICE OF PETITIONS
A/C PATENTS**

ON PETITION

In re Application of
Tartaglia, et al.
Application No. 08/746,668
Filed: November 14, 1996
Attorney Docket No. 98,231

This is a decision on the petition under 37 CFR 1.137(b), filed December 28, 2000, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the Notice to File Missing Parts of Application (CPA) mailed January 11, 2000, which set forth a two (2) month shortened statutory period for reply. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Accordingly, this application became abandoned on March 12, 2000. The present petition preceded the mailing of the Notice of Abandonment.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-5589.

Christina T. Tartera

Christina T. Tartera
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

SEP - 3 2004

WILLIAM S. FROMMER, THOMAS J. KOWALSKI
FROMMER, LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

In re Application of	:
James Tartaglia et al	:
Serial No.: 08/746,668	: PETITION DECISION
Filed: November 14, 1996	:
Attorney Docket No.: 454310-3000	:

This is in response to the petition under 37 CFR 1.181, filed March 30, 2004, requesting withdrawal of abandonment based on timely filing of a reply.

A review of the file history shows that the examiner mailed a non-Final Office action to applicants on June 17, 2003, setting a three month shortened statutory period for reply. Applicants filed a reply to the Office action on September 8, 2003. On March 9, 2004 the Office mailed a Notice of Abandonment to applicants for failure to file a proper reply to the Final Office action. As the Office action in question was not a Final Office action the Notice of Abandonment was mailed in error. In view thereof, the Notice of Abandonment is withdrawn and the application restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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#49

MCI, INC.
1133 19TH STREET NW, 4TH FLOOR
WASHINGTON, DC 20036

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NOV 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Isaac K. Elliott	:	
Application No. 08/746,901	:	DECISION GRANTING PETITION
Filed: November 18, 1996	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MCIC-105/00U	:	

This is a decision on the petition, filed November 29,2 005, 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 May 13, 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 (571) 272-3218.

This matter is being referred to Technology Center AU 2665 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 18

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JUL 3 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

GLADYS H. MONROY
MORRISON AND FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of
Selawry and Cameron
Application No. 08/747,122
Filed: November 8, 1996
Attorney Docket No. 311772000321
For: Methods of Treating Disease Using Sertoli Cells and Allografts or Xenografts

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

This is in response to the petition under 37 CFR 1.47(a), filed June 3, 1997.

This is also in response to the "Petition to Correct Inventorship Pursuant to 37 CFR 1.47(a)," filed December 30, 1999.

The petition under 37 CFR 1.47(a), filed June 3, 1997, is **granted**.

The "Petition to Correct Inventorship Pursuant to 37 CFR 1.47(a)," filed December 30, 1999, is **dismissed as moot.**

In the original petition, petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the "Declaration of Facts" of Carmella L. Stephens established that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the Declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

As to the "Petition to Correct Inventorship Pursuant to 37 CFR 1.47(a)," filed December 30, 1999, the petition is unnecessary because the application has been granted Rule 1.47(a) status. Therefore, the petition is dismissed as moot. The Substitute Declaration of December 30, 1999, will remain in the file for the Examiner's review.

Copied from 10044604 on 12/21/2005

The Office will retain the $130.00 petition fee submitted on December 30, 1999, because Office records indicate that petitioner did not submit the fee with the petition of June 3, 1997.

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

Telephone inquiries regarding this decision should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

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

Enclosure: Corrected Filing Receipt

Copied from 10044604 on 12/21/2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Helena P. Selawry
386 Beahm Lane
Rileyville, VA 22650

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JUL 3 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Selawry and Cameron
Application No. 08/747,122
Filed: November 8, 1996
For: Methods of Treating Disease Using Sertoli Cells and Allografts or Xenografts

LETTER

Dear Dr. Selawry:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

GLADYS H. MONROY
MORRISON AND FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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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

OCT 18 2002

Paper No. 20

In re Application of :
Igor Palley *et al* : DECISION ON PETITION
Application No. 08/747,471 :
Filed: November 12, 1996 :
Attorney Docket No. 30-3744CIP2CPA

This is a decision on the petition filed on October 7, 2002 by which petitioners request withdrawal of the holding of abandonment for failure to file a reply to the Office letter dated June 21, 2001. No fee is required for the petition.

The petition is dismissed.

Petitioners allege that the application is not abandoned because their failure to file a reply to the Office letter in question was due to the fact that the Office letter in question was not received by petitioners. In support of this allegation, petitioners have included an evidentiary showing which appears to satisfy the **minimum** requirements for a showing of nonreceipt of Office correspondence, as established by the Notice published at 1156 OG 53 and discussed in MPEP 711.03(c).

However, it is noted that petitioners indicated that the Office letter in question was apparently not received because it was addressed to P.O. Box 31, Petersburg, VA instead of to Woods Edge Road, Colonial Heights, VA. This is taken to be a statement that petitioners' correspondence address has changed and differs from that which is presently of record, and which was of record since this application was filed. If the failure to receive the Office letter mailed on that date, which the record shows was properly addressed to the correspondence address of record, was as a result of petitioners' failure to file a proper request that the correspondence address of record be changed, then it would appear that relief under 37 CFR 1.181 (the basis for filing a petition to withdraw a holding of abandonment based upon Office error) is not appropriate, because the Office has not been shown to have committed an error which caused the abandonment. In this regard, attention is invited to MPEP § 601.03 with respect to the duty to promptly notify the Office of the change of address, and to MPEP § 711.03(c), at page 149, regarding the treatment of a petition pursuant to 37 CFR 1.137(a) when the record shows that the Office has not been notified of a change of correspondence address. It is submitted that just as a petition based upon unavoidable delay cannot be granted where no change of correspondence address was filed, a petition based upon error on the part of the Office cannot be granted when the failure to receive properly addressed correspondence was as a result of the failure to notify the Office of a change of correspondence address.

Therefore, petitioners are invited to file a renewed petition under 37 CFR 1.181, without fee, which provides evidence regarding the issues of when the correspondence address was changed to the address indicated in the body of the petition, what arrangements were in place respecting forwarding of mail to the new address with respect to the time period including June 26, 2001, whether the failure of correspondence to be forwarded in this instance appears to be an isolated circumstance. In addition, petitioners should file a separate paper directing that the correspondence address be changed to the new correspondence address as the correspondence address of record will not be changed based upon a request included in the petition. See 37 CFR 1.4(c). As a courtesy the instant decision is being mailed to the new correspondence address. The renewed petition must be filed within two months of the date of this decision. See 37 CFR

1.181(f). In the event that petitioners elect to file a renewed petition under 37 CFR 1.181, a terminal disclaimer will be required, because the instant petition was not timely filed under 37 CFR 1.181(f). See MPEP § 711.03(c), at page 700-139 for the appropriate language that must be included in the terminal disclaimer, which language is **not** the language which is used in a terminal disclaimer filed to overcome an obvious type double patenting rejection.

The application is being retained in Technology Center 3700 pending further action by petitioners.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Attachment

Renee J. Rymarz
Allied Signal, Inc.
P. O. Box 31
Petersburg, VA 23804

cc: Honeywell International Inc.
15801 Woods Edge Road
Colonial Heights, VA 23834

ATTACHMENT

The petition and attached papers filed on October 7, 2002 (certificate of mailing dated October 1, 2002) have not been made part of the permanent records of the United States Patent and Trademark Office (Office) for this application (37 CFR 1.52(a)) because of damage from the United States Postal Service irradiation process. The above-identified papers, however, were not so damaged as to preclude the USPTO from making a legible copy of such papers. Therefore, the Office has made a copy of these papers, substituted them for the originals in the file, and stamped that copy:

COPY OF PAPERS
ORIGINALLY FILED

If applicant wants to review the accuracy of the Office's copy of such papers, applicant may either inspect the application (37 CFR 1.14(d)) or may request a copy of the Office's records of such papers (*i.e.*, a copy of the copy made by the Office) from the Office of Public Records for the fee specified in 37 CFR 1.19(b)(4). Please do **not** call the Technology Center's Customer Service Center to inquiry about the completeness or accuracy of Office's copy of the above-identified papers, as the Technology Center's Customer Service Center will **not** be able to provide this service.

If applicant does not consider the Office's copy of such papers to be accurate, applicant must provide a copy of the above-identified papers (except for any U.S. or foreign patent documents submitted with the above-identified papers) with a statement that such copy is a complete and accurate copy of the originally submitted documents. If applicant provides such a copy of the above-identified papers and statement within **THREE MONTHS** of the mail date of this Office action, the Office will add the original mailroom date and use the copy provided by applicant as the permanent Office record of the above-identified papers in place of the copy made by the Office. Otherwise, the Office's copy will be used as the permanent Office record of the above-identified papers (*i.e.*, the Office will use the copy of the above-identified papers made by the Office for examination and all other purposes). This three-month period is not extendable.

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
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MAR 12 2003

Paper No. 22

In re Application of :
Igor Palley *et al* : DECISION ON PETITION
Application No. 08/747,471 :
Filed: November 12, 1996 :
Attorney Docket No. 30-3744CIP2CPA

This is a decision on the renewed petition filed on December 17, 2002 by which petitioners again request withdrawal of the holding of abandonment for failure to file a reply to the Office letter dated June 21, 2001. No fee is required for the renewed petition.

The renewed petition is dismissed.

In their original petition, petitioners alleged that the application is not abandoned because their failure to file a reply to the Office letter in question was due to the fact that the Office letter in question was not received by petitioners. In support of this allegation, petitioners had included an evidentiary showing which appeared to satisfy the **minimum** requirements for a showing of nonreceipt of Office correspondence, as established by the Notice published at 1156 OG 53 and discussed in MPEP 711.03(c).

The original petition was dismissed because it was noted that petitioners indicated that the Office letter in question was apparently not received because it was addressed to P.O. Box 31, Petersburg, VA instead of to Woods Edge Road, Colonial Heights, VA. This was taken to be a statement that petitioners' correspondence address had changed and differed from that which was of record when this application was filed.

In the renewed petition, petitioners have adequately addressed that matter. However, petitioners were also required to file a terminal disclaimer. Petitioners were further advised that a terminal disclaimer would be required, because the instant petition was not timely filed under 37 CFR 1.181(f). Petitioners were asked to consult MPEP § 711.03(c), at page 700-139 for the appropriate language that must be included in the terminal disclaimer, which language is **not** the language which is used in a terminal disclaimer filed to overcome an obvious type double patenting rejection. Petitioners have filed a terminal disclaimer with the renewed petition, but it will not be accepted and recorded because it does not contain the correct language. Petitioners are advised that option reading "lesser of: (a) ...; or (b)." is unacceptable. The only acceptable language is that set forth in option (b) on the terminal disclaimer form. Again, see MPEP § 711.03(c).

Absent a proper terminal disclaimer, the renewed petition cannot be granted. Petitioners must file a renewed petition within the time frame established in MPEP § 711.03(c) presenting the appropriate terminal disclaimer.

Further, it was suggested that petitioners prepare a separate paper directing that the correspondence address be changed to the new correspondence address as the correspondence address of record could not be changed based upon a request included in the original petition. See 37 CFR 1.4(c). In the renewed petition, petitioners indicate that the "old" address will be ineffective on January 3, 2003. Yet no change of correspondence address has been filed to date in this application. It is strongly suggested that petitioners file a proper change of correspondence address, as no papers subsequent to this one will be mailed to both the "old" and

the "new" correspondence address.

The application is being retained in Technology Center 3700 pending further action by petitioners.

PETITION DISMISSED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Renee J. Rymarz
Allied Signal, Inc.
P. O. Box 31
Petersburg, VA 23804

cc: Honeywell International Inc.
15801 Woods Edge Road
Colonial Heights, VA 23834

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 14 2004

In re Application of :
Igor Palley *et al* : DECISION ON
Application No. 08/747,471 : RENEWED PETITION
Filed: November 12, 1996 :
Attorney Docket No. 30-3744CIP2CPA

This is a decision on the renewed petition filed by facsimile transmission on April 13, 2004, which apparently was originally filed on April 14, 2003 and was misplaced in the Office. It is noted that there is a copy of this petition in the record dated April 21, 2004. No fee is required for the renewed petition, which is being considered pursuant to 37 CFR 1.181.

The renewed petition is granted.

Reference is made to the decisions on petition dated October 18, 2002 and March 12, 2003. It is noted that the March 12, 2003 decision indicated that petitioner had adequately established that it had not received the Office letter dated June 21, 2001, but that the petition could not be granted absent a terminal disclaimer.

Petitioners have now submitted a terminal disclaimer and the fee therefor. Therefore, petitioners are now entitled to the requested relief. 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 to:

1. Change the correspondence address in accordance with the change of address filed on April 13, 2004;

2. Remail the Office letter dated June 26, 2001. This was a final rejection and there are no attachments.

The application should then be forwarded to Paralegal Sheila Veney for processing the terminal disclaimer which is part of the petition papers dated April 13, 2004. It is noted that the copy of the terminal disclaimer that appears in the petition papers filed April 21, 2004 indicates that the disclaimer fee has been properly charged.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Honeywell International Inc.
15801 Woods Edge Road
Colonial Heights, VA 23804

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Honeywell International Inc.
15801 Woods Edge Road
Colonial Heights, VA 23834

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OFFICE OF PETITIONS

In re Application of
Igor Palley et al.
Application No.: 08/747,471
Filed: November 12, 1996
Attorney Docket No.: 30-3744CIP2
For: BARRIER UNITS AND ARTICLES MADE THEREFROM

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed November 03, 2006. 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 June 28, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-entitled application became abandoned at midnight on September 28, 2006.

On November 03, 2006, applicant filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) petition fee; (2) the required statement of unintentional delay,[1] (3) the required reply in the form of the payment of the issue fee; and (4) a terminal disclaimer. Accordingly, the issue fee payment is accepted as having been unintentionally delayed.

The application is being referred to the Office of Publications.

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

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459

[1]It is noted that 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 1.37(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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OFFICE OF PETITIONS

ELMER GOSHON
CRYSTAL GATEWAY NORTH
1111 JEFFERSON DAVIS HWY
SUITE 513
ARLINGTON VA 22202-4306

Paper No. 11

In re Application of	:	
ROBUSTO et al.	:	WITHDRAWAL
Application No. 08/747,799	:	OF
Filed: November 8, 1996	:	ABANDONMENT
Attorney Docket No.: (NC:76.699)	:	

The above-identified application is before the Office of Petitions for consideration of issues surrounding the mailing of the Notice of Abandonment on December 7, 1998.

RELEVANT BACKGROUND

The above-identified application was filed with the United States Patent and Trademark Office (USPTO) on November 8, 1996. A Notice of Allowance and Issue Fee Due was mailed on July 21, 1998, which was accompanied by other papers that including a Notice of Allowability. The Notice of Allowance and Issue Fee Due set forth a three month statutory time period for payment of the $1320.00 Issue Fee, which expired on October 21, 1998. The Notice of Allowability required applicants to submit new formal drawings in accordance with the Office action mailed April 17, 1998, i.e., Paper No. 5. A Notice of Abandonment was subsequently mailed on December 7, 1998 on the basis that the Issue Fee was not received.

On September 16, 2008, applicants filed a communication with supporting documents urging that the Issue Fee and formal drawings were timely submitted on August 5, 1998. The August 5, 1998 submission included copies of the August 5, 1998 submission, a copy of the receipt post card receipt date stamped by the United States Patent and Trademark Office (USPTO), and a cover letter urging the enclosed copies are exact copies of the original documents filed August 5, 1998.

DISCUSSION

The original documents filed with the USPTO on August 5, 1998 have been located and are of record in the application file. The original documents are consistent with copies submitted with the September 16, 2008 communication. The itemized listing and USPTO receipt date stamp on

the copy of the postcard receipt are also consistent with the contents of the original documents and the original date USPTO receipt date stamped thereon. As such, the application record clearly shows that applicants timely filed the requisite (1) Issue Fee and (2) formal drawings on August 5, 1998. Accordingly, it is appropriate to withdraw the Notice of Abandonment, charge the requisite Issue Fee as previously authorized, and forward the application to Publication Branch for continued processing and issuance as a patent.

CONCLUSION

The Notice of Abandonment mailed December 7, 2008 is hereby **WITHDRAWN**.

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

This application is being forwarded to the Publication Branch for continued processing and issuance as a patent in accordance with this decision.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Department of the Navy
Special Projects Division
Office of Counsel
P. O. Box 26256
Arlington, VA 22215

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.
08/747,873	11/13/96	Johannes Megens	

PATENT NUMBER	DATE OF THIS NOTICE	PAPER NUMBER
5,042,103	04/29/02	39

NOTICE OF MERGED REEXAM - REISSUE PROCEEDING

This reissue application has been merged with the reexamination proceeding listed below:

Control No. 90/ 006,053 Filing Date: 07/09/01

Requester (name, address) James A. Flight
Marshall, O'Toole, Gerstein
Murray & Borun
6300 Sears Tower
Chicago, IL 60606-6402

The front face of the reissue patent will include the following paragraph:

REEXAMINATION RESULTS

The questions raised in reexamination request No. 90/006,053, filed 07/09/01, have been considered and the results thereof are reflected in this reissue patent which constitutes the reexamination certificate required by 35 U.S.C. 307 as provided in 37 CFR 1.570(e).

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Paper No. 38

David B. Smith
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(For Patent Owner)

James A. Flight
MARSHALL O'TOOLE GERSTEIN
MURRAY & BORUN
6300 Sears Tower
Chicago, IL 60606-6402

(For Requester)

MAILED

APR 29 2002

REEXAM UNIT

In re reissue application of
Megens
Application No. 08/747,873
Filed: November 13, 1996
For: U.S. Patent No. 5,042,103

In re reissue application of
Megens
Application No. 09/598,785
Filed: June 20, 2000
For: U.S. Patent No. 5,042,103

In re Megens
Reexamination Proceeding
Control No. 90/006,053
Filed: July 9, 2001
For: U.S. Patent No. 5,042,103

DECISION MERGING REEXAMINATION AND REISSUE PROCEEDINGS

The above-identified reissue applications and reexamination proceeding are before the Office of Patent Legal Administration for consideration of whether the proceedings should be merged at this time.

REVIEW OF FACTS

1. U.S. Patent No. 5,042,103 issued to Megens, on August 27, 1991.

2. A first reissue application was filed on the '103 patent on September 22, 1995, and was assigned application no. 08/532,415. The '415 reissue application is now abandoned.

3. A second reissue application, which is a continuation of reissue application no. 08/532,415, now abandoned, was filed on the '103 patent on November 13, 1996, and was assigned application no. 08/747,873. A non-final rejection was mailed on March 27, 2001, in the '873 continuation reissue application, and a response to the non-final rejection, including drawings, was received on August 27, 2001.

4. A third reissue application was filed on the '103 patent on June 20, 2000, and was assigned application no. 09/598,785. A non-final rejection was mailed on May 4, 2001, in the '785 reissue application, and a response to the non-final rejection was received on October 4, 2001.

5. A request for reexamination of the '103 patent was filed by a third party requester on July 9, 2001, and the resulting reexamination proceeding was assigned Control No. 90/006,053. On September 13, 2001, reexamination was ordered in the '6053 proceeding.

6. The time period for filing a patent owner's statement under 37 C.F.R. § 1.530 has expired, and no owner's statement has been received in the '6053 proceeding.

DEPOSITED COPY

DISCUSSION REGARDING MERGER

Under 37 C.F.R. § 1.565(d):

> (d) If a reissue application and a reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to stay one of the two proceedings....

As evidenced by the above review of facts, the reissue applications and the reexamination proceeding are currently pending. Since the Order has been mailed pursuant to § 1.525 in the '6053 reexamination proceeding, a decision under § 1.565(d) is timely.

The general policy of the Office is that examination of reissue and reexamination proceedings will not be conducted separately and at the same time for a single patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the multiple proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of all of the proceedings. In making a decision on whether or not to merge the multiple proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

A review of the prosecution history of the '6053 reexamination file shows that the original specification, drawings and patent claims 1-11, are presently in the reexamination file. The reexamination proceeding is awaiting the examiner's preparation of a first Office action on the merits.

A review of the second reissue (Application No. 08/747,873) prosecution history shows that the continuation reissue application was affirmed-in-part at the Board of Patent Appeals and Interferences (BPAI), and a nonfinal Office action was mailed on March 27, 2001. A response to the nonfinal Office action was received on August 27, 2001, and the application is awaiting a second Office action on the merits by the examiner. In the reissue application, applicant includes original patent claims 4 and 6-11, and has amended claims 1-3 and 5 and submitted new claims 12-16 and 22-27 for consideration (claims 17-21 have been canceled), as well as amended the specification at Cols. 1 and 2, and amended Figures 3 and 5. It should be noted that the amendments of June 25, 2001, and August 27, 2001, have not been entered, as they are not in compliance with the format for amending reissue applications, specifically 37 C.F.R. § 1.173.

A review of the third reissue (Application No. 09/598,785) prosecution history shows that a nonfinal Office action was mailed on May 4, 2001. A response to the nonfinal Office action was received on October 4, 2001, which response includes amendments that are not in the proper amendment format for reissue

applications (37 C.F.R. § 1.173). The application is awaiting a second Office action on the merits by the examiner. In this reissue application, applicant has canceled claims 1-24 and submitted new claims 25-47 for consideration, as per the amendment of June 20, 2000. It should be noted that since the amendment to the specification filed on October 4, 2001, is not in compliance with the format for amending reissue applications, specifically 37 C.F.R. § 1.173, it has not been entered.

Thus, the claims are not identical in all three proceedings. In order to provide efficient, consistent and prompt handling of all three proceedings, it is appropriate that the reissue applications and the reexamination proceeding be merged and a joint examination be conducted. Accordingly, the examination of the reissue applications and the reexamination proceeding will be conducted in accordance with the decision set forth below.

Decision Page

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-identified reissue applications and reexamination proceeding are *sua sponte* merged. A joint examination will be conducted in accordance with the guidelines and requirements which follow.

II. Requirement for Same Amendments in All Proceedings

The above-identified reissue applications and reexamination proceeding are merged in accordance with 37 C.F.R. § 1.565(d), for the **purpose of joint examination only**. In view of the fact that the two reissue applications contain separate sets of claims, which is appropriate under 37 C.F.R. § 1.177(b), the requirement for patent owner to present the same claims in all three cases is hereby **waived**.

However, since the amendments of June 25, 2001, and August 27, 2001, in reissue application no. 08/747,873 have not been

entered, and since the amendment to the specification filed on October 4, 2001, in reissue application no. 09/598,785 has not been entered, patent owner/applicant is hereby given **one month** from the mailing date of this merge decision in which to file proper reissue amendments in compliance with 37 C.F.R. § 1.173. Such amendments should be filed in accordance with the procedure set forth in Part III. of this decision, the third paragraph, items 2-4 below. Note that it is not necessary to file a copy of any of the amendments from the reissue applications in the reexamination proceeding at this time, as discussed in more detail below.

III. Conduct of the Merged Reissue and Reexamination Proceedings

Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. § 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue application examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding.

The requirement that the same Office actions and patent owner responses will be placed in all three cases is hereby **waived**.

Each proceeding will proceed **independently, but simultaneously**, within the merged proceedings, as follows:

1. A joint examination of the proceedings will be conducted, and any Office actions will be **mailed at the same time** in both reissue cases.

2. The patent owner is **required to file responses** in both reissue cases independently, but **simultaneously**.

3. Such responses should include identifying data, e.g., the application number, for that case, but should also make reference to the other two cases of the merged proceeding.

4. Any such responses must be served on the third party requester, who will also be sent copies of all Office actions. See 37 C.F.R. § 1.550(f).

5. Due to the different claims in all three cases, and because the merged examination will be conducted on the basis of the rules relating to the broader, reissue application examination, the reexamination file will remain dormant, in that no papers mailed by the USPTO nor any papers filed by patent owner, pertaining to the merged proceeding, will be made of record in the reexamination file at this time, although all of the papers mailed/filed in the two reissue applications will constitute the merged proceeding.

6. Due to the unique nature of these merged proceedings, all papers will be centrally processed in the USPTO by the Central Reexamination Unit (CRU), and will be scanned into the electronic database (REPS) in the CRU, so as to be readily available for public viewing and copying. The reissue application files will be electronically linked to the reexamination proceeding file, as they constitute the merged proceeding.

When all claims are indicated to be allowable in one of the cases, all three files must be returned to the Office of Patent Legal Administration for reconsideration of the merge decision. At that time, the Office of Patent Legal Administration may consider suspending the allowable case, to await conclusion of the other proceedings, in order to permit the cases to issue simultaneously.

If the reissue applications ultimately mature into a reissue patent, the reexamination proceeding shall be terminated by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 C.F.R. § 1.570. See MPEP 2285.

If the applicant/patent owner fails to file a timely and appropriate response to any Office action in one of the reissue applications, the merged proceeding will be terminated as follows. That reissue application will be held abandoned, and the merger will be dissolved as to that reissue application. However, the other two cases will remain intact, and must be returned to the Office of Patent Legal Administration for reconsideration of the merge decision, which will most likely result in reverting to normal reissue/reexamination merger practice.

If the applicant/patent owner fails to file a timely and

appropriate response to any Office action in both of the reissue applications, the merged proceeding will be terminated as follows. The reissue applications will be held abandoned, and the merger will be dissolved. With respect to the reexamination proceeding, the Commissioner will proceed to issue a reexamination certificate under 37 C.F.R. § 1.570 in accordance with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings.

If the applicant/patent owner files an express abandonment in one of the reissue applications pursuant to 37 C.F.R. § 1.138, the next Office action of the examiner will accept the express abandonment, and the merged proceeding will be dissolved as to that reissue application. However, the other two cases will remain intact, and must be returned to the Office of Patent Legal Administration for reconsideration of the merge decision.

If the applicant/patent owner files an express abandonment in both of the reissue applications pursuant to 37 C.F.R. § 1.138, the next Office action of the examiner will accept the express abandonments, dissolve the merged proceeding, and continue examination as to the reexamination proceeding. Any grounds of rejection which are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 C.F.R. § 1.552(c).

CONCLUSION

1. The above-identified reissue applications and reexamination proceeding **ARE MERGED** into a single consolidated proceeding. A copy of this merge decision will be made of record in each of the three files.

2. The requirement for placing the same amendments in all three cases of the present merged proceeding is waived.

3. Patent owner/applicant is given **one month** from the mailing date of this merge decision in which to file proper reissue amendments in compliance with 37 C.F.R. § 1.173, since the amendments of June 25, 2001, and August 27, 2001, in reissue application no. 08/747,873 and the amendment filed on October 4, 2001, in reissue application no. 09/598,785 have not been entered. Such amendments must be filed in accordance with the procedure set forth in Part III. of this decision, the third paragraph, items 2-4, above.

4. The cases will be stored in the CRU to await the receipt of such proper reissue amendments, or expiration of the one month time period for filing such amendments, whichever comes first.

5. The reissue application files and the reexamination file will then be forwarded to the Group Director of Technology Center 3600. All further examination should be conducted in accordance with this decision. The examiner should prepare Office actions on the merits for the present merged proceeding of the reissue applications and reexamination proceeding, which Office actions and all files should be forwarded to the CRU for central processing and simultaneous mailing of the Office actions.

6. If all claims are indicated to be allowable in one of the three cases, all three files **must be returned** to the Office of Patent Legal Administration for reconsideration of the merge decision, and consideration of possible suspension of such case.

7. Telephone inquiries related to this decision should be directed to Lynn M. Kryza at (703) 308-0255.

Robert J. Spar, Director
Office of Patent Legal Administration

April 26, 2002

Decision Merging

UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No. 48

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MAR 30 2005

REEXAM UNIT

In re reissue application of
Megens
Application No. 08/747,873
Filed: November 13, 1996
For: U.S. Patent No. 5,042,103

In re reissue application of
Megens
Application No. 09/598,785
Filed: June 20, 2000
For: U.S. Patent No. 5,042,103

In re Megens
Reexamination Proceeding
Control No. 90/006,053
Filed: July 9, 2001
For: U.S. Patent No. 5,042,103

DECISION ON MERGER OF REEXAMINATION AND REISSUE PROCEEDINGS

The above-identified reissue applications and reexamination proceeding are before the Office of Patent Legal Administration for consideration of whether the proceedings should remain merged at this time.

REVIEW OF FACTS

1. U.S. Patent No. 5,042,103 issued to Megens, on August 27, 1991.

2. A first reissue application was filed on the '103 patent on September 22, 1995, and was assigned application no. 08/532,415. The '415 reissue application is now abandoned.

3. A second reissue application, which is a continuation of reissue application no. 08/532,415, now abandoned, was filed on the '103 patent on November 13, 1996, and was assigned application no. 08/747,873. A non-final rejection was mailed on March 27, 2001, in the '873 continuation reissue application, and a response to the non-final rejection, including drawings, was received on August 27, 2001.

4. A third reissue application was filed on the '103 patent on June 20, 2000, and was assigned application no. 09/598,785. A non-final rejection was mailed on May 4, 2001, in the '785 reissue application.

5. A request for reexamination of the '103 patent was filed by a third party requester on July 9, 2001, and the resulting reexamination proceeding was assigned Control No. 90/006,053. On September 13, 2001, reexamination was ordered in the '6053 proceeding.

6. A response to the non-final rejection was received in the '785 reissue application on October 4, 2001.

7. No patent owner's statement under 37 C.F.R. § 1.530 was received in the '6053 proceeding.

8. A decision merging all three proceedings was mailed on April 29, 2002, which indicated that each reissue proceeding will proceed **independently, but simultaneously**, within the merged proceedings, and the reexamination file will remain dormant.

9. On June 3, 2002, the patent owner sent in corrected amendments for both the '785 and '873 reissue proceedings, as required in response to the merge decision. (Note that the reexamination file has remained dormant, per the April 29, 2002, decision.)

10. On March 26, 2003, a supplemental amendment including a statement of support was filed in both the '873 and '785 reissue proceedings.

11. A final rejection was mailed in both of the '785 and '873 reissue proceedings on March 28, 2003.

12. On July 31, 2003, a letter of express abandonment was filed in the '785 reissue proceeding, and a request for an extension of time of one month was requested in the '873 reissue proceeding, which was accompanied by a proposed amendment/response to the outstanding final rejection. On same date, the request for an extension of time of one month was granted.

DECISION DISSOLVING MERGER AS TO REISSUE APPLICATION NO. 09/598,785

The Decision Merging the above-identified Reissue Applications and the Reexamination Proceeding mailed on April 29, 2002, specified that if the applicant/patent owner filed an express abandonment in one of the reissue applications pursuant to 37 C.F.R. § 1.138, then the next Office action of the examiner would accept the express abandonment, and the merged proceeding would be dissolved as to that reissue application. The decision also indicated that the other two cases would remain intact, and must be returned to the Office of Patent Legal Administration for reconsideration of the decision merging proceedings.

Since a letter of express abandonment was filed in the '785 reissue proceeding on July 31, 2003, and has been recognized per MPEP 711.01, the '785 reissue application is abandoned, and therefore the merged proceeding is dissolved as to the '785 reissue proceeding. The merger of the '873 reissue application and the '6053 reexamination proceeding remains intact, and is properly before the Office of Patent Legal Administration for reconsideration of the conduct of the merged proceeding set forth in the previous decision of April 29, 2002.

DISCUSSION OF REMAINING MERGER

The '873 reissue application and the '6053 reexamination proceeding **remain merged**, and reconsideration of the conduct of these merged proceedings is now appropriately before the Office of Patent Legal Administration.

A review of the prosecution history of the '6053 reexamination file shows that the original specification, drawings and patent claims 1-11, are presently in the reexamination file. The reexamination proceeding also contains the decision merging proceedings of April 29, 2002, but no further papers have been added to this file, per the directions set forth in same decision.

A review of the '873 reissue prosecution history shows that the rejections on appeal in this continuation reissue application were affirmed-in-part at the Board of Patent Appeals and Interferences (BPAI), and a non-final Office action was mailed on March 27, 2001. A response to the non-final Office action was received on August 27, 2001, and the decision merging proceedings was mailed on April 29, 2002. Subsequent to the merge decision, a housekeeping amendment was filed on June 3, 2002, which provided the previously filed informal amendments in the appropriate format for reissue applications; and on March 26, 2003, a supplemental amendment including a statement of support was filed in the '873 reissue application. A final rejection was mailed on March 28, 2003, in which claims 1-4, 6-7, 9-12 and 25-28 were rejected; claim 5 was objected to; and claims 13-15 were indicated to be allowable. A response to the final rejection was filed on July 31, 2003, in which the applicant proposes to amend the drawings; to amend the specification, Cols. 1-4; cancel claims 1-7, 9-12 and 25-28; and indicates that claims 13-15 are pending.

Thus, the claims are <u>not</u> identical in both proceedings. In order to provide efficient, consistent and prompt handling of both proceedings, it is appropriate that the reissue application and the reexamination proceeding remain merged and a joint examination be conducted. Accordingly, the examination of the reissue application and the reexamination proceeding will be conducted in accordance with the decision set forth below.

DECISION ON THE CONDUCT OF THE REMAINING MERGED REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The 08/747,873 reissue application and the 90/006,053 reexamination proceeding remain merged. A joint examination will be conducted in accordance with the guidelines and requirements which follow.

II. Requirement for Same Amendments in Both Proceedings

The patent owner is required to maintain identical amendments in the reissue application and the reexamination file for purposes of the merged proceeding. The maintenance of identical amendments in both files is required as long as the proceedings remain merged. See 37 C.F.R. § 1.565(d).

As noted above with regard to the amendments submitted, the drawings, specification, and claims are NOT the same in both files.

However, since all of the amendments subsequent to the merge decision apply to the merged proceeding, and include the appropriate identifiers for the merged cases as directed in the prior merge decision, it is appropriate and now timely for the reexamination file to be physically updated. The merged proceedings will be updated to include all of the same amendments in both of the remaining merged files, specifically, Application No. 08/747,873, and Control Number 90/006,053.

III. Conduct of the Merged Reissue and Reexamination Proceedings

Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. § 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue application, examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding.

Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data *for both of the cases, i.e,* the '873 reissue application and the '6053 reexamination proceeding. Each action will be entered into both files (which will be maintained as separate files), and copies will be mailed to the patent owner and the requester.

Any response by the applicant/patent owner must consist of a single response, with **two copies being filed** for entry in both files, with each of the two copies bearing a signature, and containing identifying data for both of the cases (*i.e,* the reissue Application No. and the reexamination proceeding Control No.). Any such responses must be served on the third party requester, who will also be sent copies of all Office actions. See 37 C.F.R. § 1.550(f).

Because the merged examination will be conducted on the basis of the rules relating to the broader, reissue application examination, any amendments for the merged proceeding should be provided in the proper format for reissue applications. **Amendments in a reissue application must be in compliance with 37 C.F.R. § 1.173,** therefore all amendments to the specification, claims and drawings should contain bracketing and underlining with regard to the original patent text pursuant to 37 C.F.R. § 1.173. All new claims must be completely underlined pursuant to 37 C.F.R. § 1.173(b)(2) and (d)(2).

Since the conduct of these merged proceedings will now be the same as the standard type of reissue/reexam merger described in MPEP 2285, subsequent to the mailing of this decision, all papers will be processed in the Office by the Technology Center 3600 personnel.

If the reissue application ultimately matures into a reissue patent, the reexamination proceeding shall be terminated by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 C.F.R. § 1.570. See MPEP 2285.

If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be terminated as follows. The reissue application will be held abandoned, and the merger will be dissolved. With respect to the reexamination proceeding, the Commissioner will proceed to issue a reexamination certificate under § 1.570 in accordance

with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings.

If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 C.F.R. § 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the reexamination proceeding. Any grounds of rejection which are not applicable under reexamination would be withdrawn (*e.g.*, based on public use or sale), and any new grounds of rejection which are applicable under reexamination (*e.g.*, improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 C.F.R. § 1.552(c).

If applicant/patent owner files a Request for Continued Examination (RCE) of the reissue application under 37 C.F.R. § 1.114, the reissue application is not considered to be expressly abandoned; rather the finality of the Office action is withdrawn, and the merged proceeding will continue. This is so, because an RCE is not an abandonment of any application, whether it be a reissue application or a non-reissue application.

CONCLUSION

1. The 09/598,785 reissue application is abandoned, and the merger of the above-identified reissue applications and reexamination proceeding into a single consolidated proceeding of April 29, 2002, is **DISSOLVED** as to the 09/598,785 reissue application.

2. The merger of April 29, 2002, continues as to reissue application no. 08/747,873 and reexamination proceeding control no. 90/006,053, which **REMAIN MERGED** as a single consolidated proceeding.

3. The '6053 reexamination file will be updated by the Central Reexamination Unit (CRU) to include all of the same documents entered in reissue application no. 08/747,873, since the previous merge decision of April 29, 2002.

4. A copy of the instant decision will be placed in all three files of the above-identified proceedings.

5. The 08/747,873 reissue application file and the 90/006,053 reexamination file will then be forwarded to Technology Center 2800 for the examiner's immediate consideration of the proposed amendment-after-final of July 31, 2003, in the merged proceeding. All further examination should be conducted in accordance with this decision.

6. The examiner should promptly issue an Office action for the present merged proceeding of the reissue application and reexamination proceeding.

7. All further examination should be conducted in accordance with Parts II and III of this decision.

8. Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-7722.

Lynn M. Kryza
Senior Patent Special Projects Advisor
Office of Patent Legal Administration

March 29, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Nov-08

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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NOV 13 2008

OFFICE OF PETITIONS

In re Patent No. 6695477 :
Issue Date: 02/24/2004 :
Application Number: 08/747910 : ON PETITION
Filing Date: 11/12/1996 :
For: AUDIO SIGNAL REPRODUCING :
APPARATUS :

This is a decision on the "PETITION UNDER 37 C.F.R. §1.181(A)(2)," filed on June 23, 2008, which is treated as a petition under 37 CFR 1.182, and 37 CFR 1.183, requesting that a a terminal disclaimer recorded in prior-filed Application No. 07/600,818, filed on October 22, 1990, which issued as U.S. Patent No. 5,640,458, on June 17, 1997, be withdrawn or nullified with regard its effect on the term of instant patent.

The petition is **dismissed**.

Petitioner requests that the Director nullify any effect of the terminal disclaimer filed on June 13, 1994, in the above-referenced, prior-filed application, No. 07/600,818 (hereinafter "the '818 application") on the subject patent, No. 6,445,477 (hereinafter "the '477 patent"), which issued from Application No. 08/747,910 (hereinafter "the '910 application").

It is noted that petitioner states:

> Initially, Patentee respectfully request that 37 C.F.R. § 1.182(f) be suspended. Rule 182(f) indicates that a petition not filed within two months of the action or notice from which relief is sought may be dismissed as untimely. However, under 37 C.F.R. § 1.183, the Director, or the Director's designee, may suspend or waive a Rule in the event of extraordinary circumstances or when justice requires. Patentee submits that the present situation is such a case.

Petitioner's argument has been, considered, but is not persuasive.

Preliminarily, it is noted that MPEP 1490 states

> While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "un-happy circumstance" in In re Jentoft, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed **before the patent issues**. Since the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).
>
> The mechanisms to correct a patent – Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and reexamination (35 U.S.C. 305) – are **not** available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. **As a general principle, public policy does not favor the restoration to the patent owner 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, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).
>
> (emphasis added)

As such, petitioner must show why the terminal disclaimer filed in the '818 application, to which the subject application claims benefit under 35 U.S.C. § 120, should not be given full effect in the '477 patent which issued from the '910 application.

At the outset, a decision is being issued in Patent No. 5,640,458 (hereinafter "the '458 patent"), concerning the petition to withdraw the terminal disclaimer. The reasons why the terminal disclaimer will not be withdrawn or nullified in the '818 application have been explained in the decision issued in the '458 patent. As such, the sole issue at hand is whether the effect of the terminal disclaimer filed in the '818 application

can be nullified or withdrawn with regard to the '477 patent, which issued from the '910 application, an application claiming benefit under 35 U.S.C. § 120 to the '818 application.

The terminal disclaimer filed on June 13, 1994, in the '818 application states that petitioner "hereby disclaims the terminal twenty-six (26) months of any patent granted on said Application Serial No. 07/600,818 or on any application which is entitled to the benefit of the filing date of said Application No. Serial No. 07/600,818 under 35 U.S.C. 120."

Accordingly, in claiming the benefit under 35 U.S.C. 120 of the '818 application in the '910 application, petitioner acquiesced to any and all limitations on the patent term of any patent issuing from the '910 application, as imposed by the terminal disclaimer filed in the '818 application.

As stated above, as a general principle, public policy does not favor the restoration to the patent owner 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, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).

As discussed in the decision on petition in the '458 patent, the balance of equities does not merit the Director overruling the well-settled public policy precluding restoration to the patent owner of something that has been freely dedicated to the public in favor of correcting, after issuance of the patent and an extended period of delay. The showing of record is that petitioner did not file the petition to withdraw the terminal disclaimer in the '818 application until an extended period after the '458 patent had issued, and has not provided an adequate explanation of neither the delay in filing the petition, nor a sufficient reason why the Director should grant the requested relief under 37 CFR 1.182.

Further, considered under 37 CFR 1.183, petitioner's argument is not well taken. As stated previously, 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 Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed.

The facts presented on the record do not establish an extraordinary situation. Petitioners have not established any special circumstances or equities that would require suspension of the rules in the interests of justice. It is noted that petitioner has not identified a particular rule the waiver of which would provide the relief requested.

Lastly, 35 U.S.C. § 120 states that an application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. Accordingly, to the extent that the term of the '477 patent is limited by the terminal disclaimer filed in the '818 application, and the subject patent claims benefit of the '818 application under 35 U.S.C. 120, the claim of benefit is statutory. Accordingly, the USPTO simply lacks the authority or discretion to relax any requirement of law. See Baxter Int'l, Inc. v. McGaw, Inc., 149 F.3d 1321, 1334, 47 USPQ2d 1225, 1234-1235 (Fed. Cir. 1998)(the PTO cannot, by rule, or waiver of the rules, fashion a remedy that contravenes 35 U.S.C. §§ 112, 120); A. F. Stoddard v. Dann, 564 F.2d 556, 566, 195 USPQ 97, 105 (D.C. Cir 1977), (since the USPTO is an executive branch agency, it must follow the strict provisions of the applicable statute).

As such, to the extent that the '458 patent which issued from the '818 application, to which the subject application claims benefit under 35 U.S.C. 120, is subject to the terminal disclaimer at issue, any patent which issued from an continuing application filed under 35 U.S.C. 120, which claims the benefit of the '818 application, is, by statute, subject to all of the limitations which apply to the '818 application, the '458 patent, and any applications for patent claiming benefit under 35 U.S.C. § 120 thereto.

Accordingly, the petition is **dismissed**.

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

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

By 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 inquires should be directed to the undersigned at 571.272.3231.

DWood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight, Supervisor

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEMONT & BREYER LLC
100 COMMONS WAY STE 250
HOLMDEL NJ 07733

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FEB 09 2009

OFFICE OF PETITIONS

In re :
Patent No. 5,920,878 : DECISION ON PETITION
Issued: July 6, 1999 :
Application No. 08/748,777 :
Filed: November 14, 1996 :

This is a decision on the petition under 37 CFR 1.182, filed August 24, 2007, for a duplicate Letters patent.

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

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703)308-9250, extension 129.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letters patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Niomi Farmer, P/OPPD (FAX 571-270-9937)

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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

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OFFICE OF PETITIONS

In re Application of :
Van Der Lely :
Application No. 08/749,248 : DECISION ON PETITION
Patent No. 5,718,186 : PURSUANT TO
Filed: November 14, 1996 : 37 C.F.R. § 1.28(c)
Issued: February 17, 1998 :
Attorney Docket No. 8533-118 :
Title: CONSTRUCTION INCLUDING :
AN IMPLEMENT FOR MILKING :
ANIMALS :

This is a notice regarding your submission of May 7, 2009, which is properly treated as a request for acceptance of a fee deficiency submission under 37 C.F.R § 1.28(c). 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 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and
(d) The total deficiency payment owed, which is the

> sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Your fee deficiency submission under 37 C.F.R. § 1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This patent is now listed as a large entity.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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OFFICE OF PETITIONS

HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

In re Application of :
Van Der Lely :
Application No. 08/749,249 : DECISION ON PETITION
Patent No. 6,044,793 : PURSUANT TO
Filed: November 14, 1996 : 37 C.F.R. § 1.28(c)
Issued: April 4, 2000 :
Attorney Docket No. 8553/117 :
Title: AN APPARATUS FOR :
AUTOMATICALLY MILKING ANIMALS :
:

This is a notice regarding your submission of May 7, 2009, which is properly treated as a request for acceptance of a fee deficiency submission under 37 C.F.R § 1.28(c). 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 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

(a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
(b) The small entity fee actually paid, and when;
(c) The deficiency owed amount (for each fee erroneously paid); and
(d) The total deficiency payment owed, which is the

> sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Your fee deficiency submission under 37 C.F.R. § 1.28 is hereby accepted. The petition is **GRANTED** accordingly.

This patent is now listed as a large entity.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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)
5797025	1998-08-18	08749291	1996-11-14	7794-014-999

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	/Steve Y. Cho/	Date (YYYY-MM-DD)	
Name	Steve Y. Cho	Registration Number	44612

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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 5797025
Issue Date: August 18,1998
Application No. 08749291
Filed: November 14,1996
Attorney Docket No. 7794-014-999

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

This is a decision on the electronic petition, filed December 6,2006 ,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 6,2006 . 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
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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of	:
Metcalf	:
Application No. 08/749,766	:
Filing Date: November 20, 1996	: Decision on Petition for
Attorney Docket No.: 027966-0311337	: Patent Term Extension
For: SOUND SYSTEM AND METHOD FOR	:
CAPTURING AND REPRODUCING	:
SOUNDS ORIGINATING FROM A	:
PLURALITY OF SOUND SOURCES	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition under 37 CFR 1.181 to review a Determination of the Length of the Patent Term Extension under 37 CFR 1.701," received on March 23, 2006.

The petition is GRANTED.

Petitioner notes that the Notice of Allowance dated January 23, 2006, in the above-identified application incorrectly stated that the patent term extension is 537 days. Petitioner states that applicant is entitled to 5 years of patent term extension or alternatively 1,518 days of patent term extension, not the 537 days of extension as stated in the Notice of Allowance.

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 first Notice of Appeal was filed in the above-identified application on August 25, 2000. On May 2, 2003, the Board of Appeals and Interferences reversed 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 August 25, 2000, the date that the Notice of Appeal was filed and ending on May 2, 2003, the date of the final decision in favor of the applicant. Three years after the

earliest effective filing date of the application is November 20, 1999. 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 **981 days**, the period from August 25, 2000 to May 2, 2003, including the beginning and end dates.

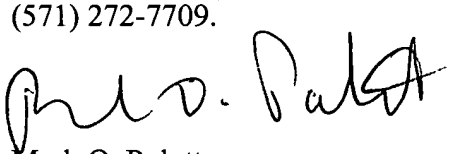
A second Notice of Appeal was filed in the above-identified application on May 14, 2004. On October 31, 2005, the Board of Appeals and Interferences reversed the decision of the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is 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 May 13, 2004, the date that the Notice of Appeal was filed and ending on October 31, 2005, the date of the final decision in favor of the applicant. Three years after the earliest effective filing date of the application is November 20, 1999. 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 second period of extension is **537 days**, the period from May 13, 2004 to October 31, 2005, including the beginning and end dates.

Petitioner's argument that the period of extension should be from August 25, 2000 to October 31, 2005, is not persuasive, as a final decision in favor of Applicant by the BPAI was mailed on May 2, 2003. The mailing of the final decision in favor of Applicant on May 2, 2003 ends the period that was started by the Notice of Appeal. As a result, the period of extension is 1,518 days, the period from August 25, 2000 to May 2, 2003 and the period from May 13, 2004 to October 31, 2005, including the beginning and end dates.

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 **1,518 days**

Petitioner's deposit account has not been charged a petition fee.

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

Paper No. 29

KUBOVCIK & KUBOVCIK
SUITE 710
900 17TH STREET NW
WASHINGTON DC 20006

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JAN 0 8 2003

OFFICE OF PETITIONS

In re Application of
SIIKA-AHO et al..
Application No. 08/750,069
Filed: February 6, 1997
Docket No.: LAIN-005

ON PETITION

This is a decision on the petition filed October 4, 2002, requesting (1) under 37 CFR 1.137(b) to revive the above-identified application, and (2), under 37 CFR 1.183, waiver of the requirement for a terminal disclaimer.

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

The petition for waiver of the requirement for a terminal disclaimer is **dismissed as moot**

The Office action of October 1, 2002, is vacated.

This application became abandoned at midnight on October 15, 2002 for failure to take appropriate action within the meaning of 37 CFR 1.304 after the decision of the Board and Patent Interferences and Appeals of July 15, 2002. While an RCE and submission under 37 CFR 1.114 were filed (untimely) on September 16, 2002, as petitioner acknowledges, the RCE practice was not applicable to the above-identified application is it has an international filing date prior to June 8, 1995. While an Office action was mailed October 1, 2002, such has no force and effect as the examiner has no authority to revive an abandoned application, and as such, the Office action could serve to relieve this application from abandonment. See Lorenz v. Finkl, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Since the examiner had no procedural authority with respect to this then abandoned application, the outstanding Office action is vacated.

Petitioner's request for waiver of a terminal disclaimer is moot, since the above-identified application is being revived strictly for copendency with the CPA filed October 4, 2002, which is an application filed after June 8, 1995. See 37 CFR 1.137(d)(3).

This application is being returned to Technology Center AU 1731 (TC) to process the CPA. The submission of September 16, 2002 will be treated as a preliminary amendment in the CPA by the TC. The fees previously paid for the RCE will be reapplied toward the filing fees for the CPA by the TC

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

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

In re Patent No. 6210688
Issue Date: April 3,2001
Application No. 08750219
Filed: February 14,1997
Attorney Docket No. G002094US

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

This is a decision on the electronic petition, filed January 27,2010 ,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 January 27,2010 . 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)
6210688	2001-04-03	08750219	1997-02-14	G002094US

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	/Gerald E. Hespos/	Date (YYYY-MM-DD)	2010-01-27
Name	Gerald E. Hespos	Registration Number	30066

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

Paper Number 15

MAILED
OCT - 4 2000
Office of Director
Technology Center 1600

In re Application of
Diane M. Gajewczyk et al
Serial No. 08/750,378
Filed: December 9, 1996
For: PROTEINACEOUS ADJUVANTS

This is a decision on the petition, filed November 19, 1999, to withdraw the holding of abandonment under 37 CFR 1.181.

On March 25, 1999, an office action was mailed to applicant which rejected claims 1-25, all the claims in the application. On November 8, 1999, a Notice of Abandonment was mailed which indicated that the application was abandoned for failing to timely file a proper response. On November 19, 1999, the petition to withdraw the holding of abandonment was filed. On April 18, 2000, a status letter was filed. On September 7, 2000, the current fax was filed. The petition asserted that the response to the office action dated March 25, 1999 was timely filed on September 27, 1999 (the six-month response period was September 25, 1999, a Saturday).

The fax of September 7, 2000 was accompanied with a copy of the Petition, a return postcard acknowledging receipt of the petition, an amendment and petition for an extension of three months of the period for response filed September 24, 1999, and the postcard receipt bears a PTO mail room receipt stamp dated September 27, 1999. Accordingly, the Petition is Granted.

PETITION GRANTED.

John Doll, Director
Technology Center 1600/2900

M.I. Stewart
330 University Ave.
6th Floor
Toronto, On M5G 1R7
Canada

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. 31

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO M5G1R-7 CA CANADA

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APR 0 2 2003

OFFICE OF PETITIONS

In re Application of :
Gajewczyk, et al. :
Application No. 08/750,378 : ON PETITION
Filed: October 31, 1997 :
Attorney Docket No. 1038-658-MIS :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed December 19, 2000. This Office action set a shortened statutory period for reply of three months. Applicant filed an amendment with a Notice of Appeal on June 19, 2001, made timely by purchasing a three month extension of time. However, the amendment failed to *prima facie* place the application in condition for allowance. Accordingly, the Notice of Appeal was entered, and applicant had two months (extendable under 37 CFR 1.136(a)) to file an Appeal Brief in triplicate. No Appeal Brief having been received, the above-identified application became abandoned on August 20, 2001. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of a Request for Continued Examination (RCE).

The application file is being forwarded to Technology Center 1600 for consideration of the RCE, filed December 17, 2002.

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

Cliff Congo
Petitions Attorney
Office of Petitions

US 0875071511P1

Creation date: 11-03-2003
Indexing Officer: KHALL - KIM HALL
Team: OIPEBackFileIndexing
Dossier: 08750715

Legal Date: 09-14-2001

No.	Doccode	Number of pages
1	LET.	12
2	XT/	1

Total number of pages: 13

Remarks:

Order of re-scan issued on .....

UNITED STATES 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. 5737209
Issue Date: April 7,1998
Application No. 08751966
Filed: October 16,1996
Attorney Docket No. LUME P001US

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

This is a decision on the electronic petition, filed May 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 May 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.

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)
5737209	1998-04-07	08751966	1996-10-16	LUME P001US

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. McLauchlan, Reg No 44924/	Date (YYYY-MM-DD)	2010-05-20
Name	Robert McLauchlan	Registration Number	44924

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.

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	08/752,032
Filing Date	November 19, 1996
First Named Inventor	Frederick M. BOYCE
Art Unit	1632
Examiner Name	Woitach, Joesph T.
Attorney Docket Number	0609.4970003/ELE/TAC

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

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ the attorneys/agents associated with Customer Number ☐

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: My withdrawal is mandatory under 37 C.F.R. Sections 2.19(a) and 10.40(b)(2) because of my employment with the United States Patent and Trademark Office beginning July 17, 2006.

CORRESPONDENCE ADDRESS

1. ☒ The correspondence address is NOT affected by this withdrawal.
2. ☐ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number: 26111

OR

☐ Firm or Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

APPROVED
WILLIAM R. DIXON, JR.
SPECIAL PROGRAM EXAMINER
1/22/07

Signature	Linda E. Horner		
Name	Linda E. Horner	Registration No.	39,588
Date	June 16, 2006	Telephone No.	(202) 371-2600

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. 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.

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)
5824064	1998-10-20	08752336	1996-11-19	1577-18

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	/Walter W. Duft/	Date (YYYY-MM-DD)	2006-10-30
Name	Walter W. Duft	Registration Number	31948

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. 5824064
Issue Date: October 20,1998
Application No. 08752336
Filed: November 19,1996
Attorney Docket No. 10929-1

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

This is a decision on the electronic petition, filed November 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 November 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.

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)
5824064	1998-10-20	08752336	1996-11-19	1577-18

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	/Walter W. Duft/	Date (YYYY-MM-DD)	2006-11-02
Name	Walter W. Duft	Registration Number	31948

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.

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 25

G. Roger Lee
Fish and Richardson
225 Franklin Street
Boston, MA 02110-2804

COPY MAILED

JUN 06 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
David J. Boothby :
Application No. 08/752,490 : ON PETITION
Filed: November 13, 1996 :
Attorney Docket No. 05110/006001 :

This is a decision on the petition filed March 2, 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.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

A.Ph.G

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 10/22/03 - **Paper No.:** 20

TO : **Supervisor, Art Unit** 2125

SUBJECT : Certificate of Correction Request in Patent No.: 5,943,676

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

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.

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 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**

11/12/03

☐ **Comments:** _____

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Supervisor **Art Unit** 2125

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DANIEL R KIMBELL
DRUCKER & SOMMERS
10877 WILSHIRE BOULEVARD
10TH FLOOR
LOS ANGELES, CA 90024

COPY MAILED

APR 0 3 2008

OFFICE OF PETITIONS

In re Patent No. 5,915,912 :
Issue Date: June 29, 1999 :
Application No. 08/752,565 : DECISION ON PETITION
Filed: November 21, 1996 :
Attorney Docket No. **6955** :

This is a decision on the petition under 37 CFR 1.378(c), filed January 29, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 29, 2007 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).

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 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. Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) is submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **ARTHUR M. ANTONELLI**
MORGAN, LEWIS & BOCKIUS, LLP
1111 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20004

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JAN 29 2008

PTO/SB/66 (10-05)
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 a valid OMB control number.

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

Docket Number (Optional): 053332-5006-US01

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 5,915,912 Application Number 08/752,565

Issue Date June 29, 1999 Filing Date November 21, 1996

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue 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).

Also complete the following information, if applicable

The above - identified patent

☐ is a reissue of original Patent No. _____, original issue date _____;
original application number _____,
original filing date _____.

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____.

04/03/2008 CKHLOK 00000001 500310 5915912
01 FC:1552 2360.00 DA
02 FC:1558 1640.00 DA

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) 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 Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

_____ _____
Date Signature

_____
Typed or printed name of person signing Certificate

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. SEND TO: Mail Stop Petition, 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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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.

1. SMALL ENTITY

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

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 1/2 yr fee	(1551)	☐ $ _____	3 1/2 yr fee	(2551)
☑ $ 2,360.00	7 1/2 yr fee	(1552)	☐ $ _____	7 1/2 yr fee	(2552)
☐ $ _____	11 1/2 yr fee	(1553)	☐ $ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 2,360.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640.00 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $ 4,000.00

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $_____.

☑ Please charge Deposit Account No. 50-0310 the sum of $ 4,000.00. A duplicate copy of this authorization is attached.

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☑ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. 50-0310. A duplicate copy of this authorization is attached.

RECEIVED
CENTRAL FAX CENTER

JAN 29 2008

PTO/SB/66 (10-05)
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 a valid OMB control number

7. OVERPAYMENT

As to any overpayment made please

☑ Credit to Deposit Account No. 50-0310.

OR

☐ Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

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

Signature(s) of Petitioner(s) — January 29, 2008 (Date)

Arthur M. Antonelli — Typed or printed name(s)

51,410 — Registration Number, if applicable

202-739-5717 — Telephone Number

Morgan Lewis & Bockius LLP — Address

1111 Pennsylvania Avenue, N.W., Washington, D.C. 20004 — Address

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."

ENCLOSURES:

☑ Maintenance Fee payment

☑ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 14

DATE : March 8, 2007

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction on Patent No.: 5868710

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.

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-*308-9390 EXT 110*

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 **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)
5913672	1999-06-22	08753450	1996-11-25	3583U.000

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 Slavin/	Date (YYYY-MM-DD)	2009-06-05
Name	Michael A. Slavin	Registration Number	34016

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. 5913672
Issue Date: June 22,1999
Application No. 08753450
Filed: November 25,1996
Attorney Docket No. 1.542.96

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

This is a decision on the electronic petition, filed June 5,2009 ,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 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 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.
08/753,929	12/03/96	ROTHSCHILD V	07920119

QM12/0920

GERALD J FERGUSON JR
SIXBEY FRIEDMAN LEEDOM AND FERGUSON
2010 CORPORATE RIDGE
SUITE 600
MCLEAN VA 22102

EXAMINER	
SAYDAH, J	
ART UNIT	**PAPER NUMBER**
3764	24
DATE MAILED:	09/20/00

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

Commissioner of Patents and Trademarks

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

Paper No. **24**

Application Number: 08/753,929
Filing Date: 12/03/96
Applicant: VERNON R. ROTHSCHILD ET AL.
For: NATURAL FOOT ORTHOSIS AND METHOD OF MANUFACTURING THE SAME

:DECISION ON PETITION UNDER
:37 CFR §1.97 FOR CONSIDERATION
:OF INFORMATION DISCLOSURE
:STATEMENT AFTER ALLOWANCE

The petition filed on MARCH 23, 2000 under 37 CFR 1.97 for consideration of an information disclosure statement filed **after allowance** has been:

[X] GRANTED.

[ ] DENIED.

[ ] It was filed after payment of the issue fee. See 37 CFR 1.97 (d)(2).

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d)(3) and 1.17(i).

[ ] A proper certification as specified in 37 CFR §§1.97(d)(1) and 1.97(e).

The information disclosure statement has been placed of record in the file, but will not be considered by the examiner.

Mickey Yu
Supervisory Patent Examiner
Group 3700

my

Sixbey, Friedman, Leedom & Ferguson, P.C.
2010 Corporate Ridge, Suite 600
McLean, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper 21

HERSHKOVITZ & ASSOCIATES
2845 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

AUG 10 2007

OFFICE OF PETITIONS

In re Patent No. 6,453,302
Issue Date: September 17, 2002
Application No. 08/756,122
Filed: November 25, 1996
Attorney Docket Number: P65328

ON PETITION

This is a decision on the petition, filed June 8, 2007, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about September 17, 2002, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioners state that the Letters Patent was received from the USPTO and was subsequently lost. The petition fee in the amount of $400.00 has been applied.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (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. 31

MARC A. HUBBARD
MUNSCH HARDT KOPF & HARR
4000 FOUNTAIN PLACE
1445 ROSS AVENUE
DALLAS, TX 75202-2790

COPY MAILED

AUG 1 3 2002

OFFICE OF PETITIONS

In re Application of :
John D. Schellenberg :
Application No. 08/756,257 : ON PETITION
Filed: November 25, 1996 :
Attorney Docket No. 4204.7-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2002, 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 11, 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 December 12, 2001.

The Revocation/New Power of Attorney filed August 7, 2002 is noted and made of record.

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

The application file is being forwarded to Technology Center AU 3737.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

MAY 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Gladwin S. Das	:	
Application No. 08/756,776	:	
Patent No. 6,077,291	:	DECISION ON TWO PETITIONS
Filed: November 26, 1996	:	PURSUANT TO 37 C.F.R. §§
Issue Date: June 20, 2000	:	1.182 AND 1.378(B)
Attorney Docket Number:	:	
16848.11.7	:	
Title: SEPTAL DEFECT CLOSURE	:	
DEVICE	:	

This is a decision on the petition filed March 26, 2008, pursuant to 37 C.F.R. § 1.378(b), to reinstate the above-identified patent. Petitioner has concurrently submitted a petition pursuant to 37 C.F.R. § 1.182, requesting expedited handling of the petition pursuant to 37 C.F.R. § 1.378(b).

The petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**. The petition pursuant to 37 C.F.R. § 1.378(b) has been accorded expedited handling.

The petition pursuant to 37 C.F.R. § 1.378(b) is **DISMISSED**.

The patent issued on June 20, 2000. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on June 20, 2004, with no payment received. Accordingly, the patent expired on June 20, 2004 at midnight.

It is noted that on June 20, 2002, Application No. 10/175,669 was filed for reissue of U.S. Patent No. 6,077,291.

With this petition, Petitioner submitted, *inter alia*, the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable, along with the 3½-year maintenance fees and numerous declarations of fact.

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. § 1.378(b) must include:

(1) The required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);
(2) The surcharge set forth in 37 C.F.R. § 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.

Petitioner has met the first and second requirements of 37 C.F.R. § 1.378(c). The third requirement has not been met. A discussion follows.

The standard

35 U.S.C. § 41(c)(1) states:

> The Director may accept the payment of any maintenance fee... after the six-month grace period if the delay[1] is shown to the satisfaction of the Director to have been unavoidable.

Rule 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 37 C.F.R. § 1.137(a). This is a very stringent standard. Decisions on reviving abandoned

1 This delay includes the entire period between the due date for the fee and the filing of a grantable petition pursuant to 37 C.F.R. § 1.378(b).

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

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business[2].

In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account[3]." Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[4]."

An adequate showing that the delay in payment of the maintenance fee at issue was unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 C.F.R. § 1.378(b).

Furthermore, under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. Thus, in support of an argument that the delay in payment was unavoidable, evidence is required that despite reasonable care on behalf of the patentee and/or the patentee's agents, and

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2 In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 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).

3 Smith v. Mossinghoff, 671 F.2d at 538, 213 U.S.P.Q. at 982.

4 Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid[5].

Even if the Office were required to provide notice to applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself[6].

Docketing error

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

Such a showing should identify the specific error[7], the individual who made the error, and the business routine in place for performing the action that resulted in the error. The showing must establish that the individual who erred was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. The showing should include information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

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

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5 See MPEP 2590 (Manual of Patent Examining Procedure, Rev, Aug. 1, 2001).
6 See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters Patent contains a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, Petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

7 Petitioner must identify the error that caused the delay. If the specific error cannot be identified, the petitioner must identify any and all possible causes and prove that any of them, if they were the true cause, constitute unavoidable delay. A full and complete discussion for each possible error must be presented. Petitioner is reminded that a petitioner has the burden of proof.

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

See M.P.E.P. § 711.03(c)(III)(C)(2).

An adequate showing should include (when relevant):

(1) statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them;
(2) a thorough explanation of the docketing and call-up system in use;
(3) identification of the type of records kept;
(4) identification of the persons responsible for the maintenance of the system;
(5) copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing;
(6) include an indication as to why the system failed in this instance, and;
(7) information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

Portions of the Code of Federal Regulations and the M.P.E.P. relevant to the abandonment of this application

37 C.F.R. § 1.362 sets forth, *in pertinent part*:

(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.

M.P.E.P. 2515 sets forth, *in pertinent part*:

If a patent expires because the maintenance fee and any necessary surcharge have not been paid in the manner required by 37 C.F.R. 1.366, the patentee could proceed under 37 C.F.R. 1.378 (see MPEP § 2590), if appropriate, or could file a petition under 37 C.F.R. 1.377 (see MPEP § 2580) within the period set therein seeking to have the maintenance fee accepted as timely even though not all of the required identifying data was present prior to expiration of the grace period.

Application of the standard to the current facts and circumstances

Petitioner has submitted, *inter alia*, a plurality of declarations of fact and affidavits from two University employees, two attorneys who are not of record, two attorneys of record.

Petitioner has asserted that the Regents of the University of Minnesota (University) is the patent holder[8], however Office

8 Petition, page 7.

records do not appear to indicate that an assignment has been recorded with the Office.

The Office for Technology Commercialization (OTC) is a department within the University that is responsible for intellectual property, as well as the licensing and technology transfer thereof[9]. Mr. Strauss served as the director of the OTC from 1999 - 2006[10], Mr. Moore served as the Director of Health Technologies for OTC from 19 - 2007[11], and Mses. Figg Garrison and Corgard are both employees of the OTC[12].

The OTC utilizes a computer data base entitled the "Technology Information Management System" (TIMS). Information pertaining to an application/patent is placed into this system by Mses. Figg Garrison and Ms. Corgard. If Computer Packages Inc. (CPI) is to track the maintenance fees for a particular patent, the flag "to CPI" is placed in the flag field of the TMS database[13].

Data Update Reports are prepared, and are submitted to CPI on a monthly basis, informing the same of any additional patents for which CPI is to monitor, or changes to patents for which CPI has already assumed responsibility. CPI uses the information contained in these monthly reports to monitor the University's patents[14].

Ms. Figg Garrison has set forth that a Ms. Barbara Pledge of CPI informed her that this patent was

> added to CPI's system in December 2001, but was deleted from CPI's system after it was marked 'abandoned' by someone at CPI on July 29, 2002.
>
> Figg Garrison declaration, paragraph 12.

It is noted that it does not appear that a statement from Ms. Pledge has been provided with this petition.

It is not clear why CPI assumed responsibility for this patent,

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9 Figg Garrison declaration, paragraph 3.
10 Strauss declaration, paragraph 5.
11 Moore declaration, paragraph 2.
12 Figg Garrison declaration, paragraphs 2-3 and Corgard declaration, paragraphs 2-3.
13 Figg Garrison declaration, paragraphs 3-4, 6, and 9-10. See also Strauss declaration, paragraph 8 and Corgard declaration, paragraphs 4-5.
14 Figg Garrison declaration, paragraph 10.

since Ms. Figg Garrison was not able to locate the presence of this patent in any OTC "Data Inquiry" reports[15].

The OTC is a member of the Association of University Technology Managers (AUTM), which appears to be a trade organization. AUTM conducts annual surveys of its members, and one of the inquiries that is made is the number of issued patents that are held by each AUTM member[16]. In January of 2001, Mr. Strauss spoke with Ms. Corgard, and expressed his desire to ensure that OTC was "accurately counting for AUTM statistics the number of issued patents owned by the University[17]." Mr. Strauss has no recollection of this particular discussion[18].

The precise instructions that Mr. Strauss gave to Ms. Corgard so as to ensure that the University would not double-count reissue applications have not been made clear, however a copy of the "contemporaneous notes taken during (her) conversation with Tony Strauss[19]" has been provided, and it is clear that she wrote:

> per TS - 1-2-01
> Reissued Patents replace (emphasis included) the last one. Mark the parent patent abandoned as soon as the Reissue app is filed. Do include it in the counts of active issued patents. (per AUTM instructions) - e-mailed VW 1-10-01

Consequently, when reissue application 10/175,669 was filed, Ms. Corgard updated the file in TIMS that is associated with patent number 6,077,291, and entered the word "abandoned" in the "status" field for this patent[20].

Ms. Corgard has set forth that this entry "may have resulted in someone at CPI thinking the University wanted to abandon the '291 patent and therefore not pay further maintenance fees[21]."

Petitioner has included a copy of a facsimile transmission that was sent from the University to CPI on July 26, 2002, which lists this patent, and includes the text "Status Abandoned." The Office will interpret this facsimile transmission to

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15 Figg Garrison declaration, paragraph 12.
16 See AUTM survey of 2007, Figg Garrison declaration, paragraph 26, Strauss declaration, paragraphs 18-19, and Corgard declaration, paragraph 26 .
17 Corgard declaration, paragraph 26.
18 Strauss declaration, paragraph 18.
19 Corgard declaration, paragraph 27.
20 Corgard declaration, paragraph 24.
21 Corgard declaration, paragraph 25.

constitute a Data Update Report, and Petitioner must notify the Office if this interpretation is not accurate.

Ms. Wing is the Director of Client Services for CPI[22]. She has set forth that the "journal page...shows that on July 29, 2002, CPI marked the '291 patent 'ABND PER FAX 7/29/02[23].'"

Consequently, this patent expired due to three docketing errors: Mr. Strauss' erroneous instruction to Ms. Corgard, Ms. Corgard's erroneous characterization of this patent as abandoned, and CPI's erroneous interpretation of this characterization.

Each docketing error will be addresses separately.

Regarding Mr. Strauss' docketing error:

Ms. Corgard has set forth that on January 2, 2001, she had a conversation with Mr. Strauss, and Mr. Strauss has indicated that he has no recollection of this particular conversation. The notes that she took contemporaneously with this discussion read, *in pertinent part*, "mark the parent patent abandoned as soon as the Reissue app is filed."

This strongly suggests that she was explicitly instructed by Mr. Strauss to mark the parent patent abandoned upon the filing of a reissue application. There does not appear to be any alternate credible explanation that would explain why Ms. Corgard wrote what she did.

Mr. Strauss is an attorney, experienced in the practice of intellectual property development and licensing[24]. Yet it appears that he instructed Ms. Corgard to list this patent as "abandoned" in the TIMS database; the same database that contains the information that is provided to CPI via the monthly Data Update Reports.

Section 711.03(c)(II)(C)(2) of the M.P.E.P. sets forth a method where a similar mistake can be characterized as unavoidable, but only when the actor was an employee such as a docket clerk or a paralegal. When the actor is am attorney, he is held to a higher standard than one of these aforementioned employees. As

22 Wing declaration, paragraph 2.
23 Wing declaration, paragraph 7. See also Wing exhibit 1, page 2.
24 Strauss declaration, paragraphs 1-5.

such, Mr. Strauss' erroneous instruction cannot be characterized as unavoidable.

Regarding Ms. Corgard's docketing error:

Petitioner has identified the error that was the cause of the delay at issue, has established that a business routine was in place for performing the clerical function that could reasonably be relied upon to avoid errors in its performance. Petitioner has further provided a thorough explanation of the docketing and call-up system in use, identification of the type of records kept, identification of the persons responsible for the maintenance of the system, an indication as to why the system failed in this instance, that Ms. Corgard was experienced in regards to the use of TIMS, and examples of other work functions carried out by her.

Petitioner's submission is deficient, for the reasons set forth below.

First, Petitioner has failed to provided statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them, in that it does not appear that Petitioner has provided a statement from Ms. Pledge.

Secondly, it does not appear that Petitioner has described either the training that was provided to Ms. Corgard, the degree of supervision of her work, examples of other work functions carried out, or the checks on the described work that were used to assure proper execution of assigned tasks.

It does not appear that Petitioner has indicated the identity of Ms. Corgard's supervisor, although it appears that she was supervised by Mr. Strauss.

If Ms. Corgard was sufficiently trained in the usage of the TIMS database, why did she not appreciate the fact that the entry of "abandoned" in the status field would signal to CPI that the University was no longer interested in maintaining this patent?

To what degree was her work supervised? If her work was supervised, why did her supervisor not realize that she had erroneously characterized this patent as abandoned?

Third, Petitioner has failed to provide copies of records that exist which would substantiate an error in docketing. In the notes which Ms. Corgard took contemporaneously with her conversation with Mr. Strauss, she wrote "e-mailed VW 1-10-01." A copy of this e-mail should be provided on renewed petition.

Regarding the docketing error made by an employee of CPI:

Petitioner has identified the error was the cause of the delay at issue, has identified the type of records kept and has provided a copy of the same.

Petitioner's submission is deficient, for the reasons set forth below:

First, Petitioner has failed to provide statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

Petitioner has asserted that an employee of CPI misconstrued the entry "abandoned" to represent an assertion that the University no longer wished for CPI to monitor this patent on its behalf, however it does not appear that Petitioner has identified this CPI employee. On renewed petition, Petitioner will need to both identify this employee and provide a statement from this individual.

Secondly, Petitioner has failed to establish that a business routine was in place for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, in that a thorough explanation of the business system has not been provided.

A patent can expire for failure to submit a maintenance fee in a timely manner, but a patent cannot become abandoned, and as such, the characterization of this patent as "abandoned" was nonsensical. CPI, a well-established business entity that is well versed in intellectual property management, should have realized that something was amiss. Therefore, on renewed petition, Petitioner must describe the official policy that was in place at CPI on July 29, 2002 for instances when a client indicates that a particular patent is "abandoned."

Third, since it is not clear what CPI's policy was in regards to this matter, it similarly cannot be determined if this unidentified employee was sufficiently trained and experienced

with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care, and if information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

Additional considerations:

First, as set forth above, it is not clear why CPI assumed responsibility for this patent, as Ms. Figg Garrison was not able to locate the presence of this patent in any OTC "Data Inquiry" reports. Petitioner will need to further develop this on renewed petition.

Secondly, Petitioner has set forth that the "[p]atent holder only recently became aware of the expiry when a motion before the Court was presented by the opponent on February 1, 2008[25]."

Mr. Moore has set forth that he would not have allowed this patent to expire

> because the University has expended considerable time and money over the past six years in pursuing its reissue application on the '291 patent as well as licensing, and now enforcement, activities on that patent.
>
> Moore declaration, paragraph 25.

If this was indeed the case, although it is noted that the University contracted out the monitoring of this patent to CPI, it is not clear why no one in the OTC noticed that CPI had never asked for money to submit towards the maintenance fee. Moreover, it is not clear why during all of the aforementioned reissue, licensing, and enforcement activities, this fact was overlooked by all interested parties at OTC. Prior to engaging in reissue, licensing, or enforcement activities, why didn't anyone check to ensure that this patent was valid?

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25 Petition, page 2. Petition, page 2. See also AGA Medical Corporation's Answer and Counterclaims, paragraph 8, Figg Garrison declaration, paragraph 17, Strauss declaration at paragraph 15, Moore declaration, paragraph 23, and Corgard declaration, paragraph 30. See additionally Maki declaration, paragraph 10 and Lundberg declaration, paragraph 6.

Why was the University unaware of the expiration of this patent prior to being informed of the same by the opposing side in litigation? Moreover, if the opposing side was able to readily ascertain that this patent had expired for failure to timely submit the maintenance fee, why was the University unable to do the same?

CONCLUSION

Any renewed petition 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 Commissioner. Accordingly, on request for reconsideration, it is extremely important that 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. Petitioner must provide documentation and address the deficiencies noted above.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is subject to refund 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.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[26], hand-delivery[27], or facsimile[28]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[29].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything

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26 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
27 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
28 (571) 273-8300- please note this is a central facsimile number.
29 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address 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 will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf. A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[30].

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

30 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
Gladwin S. Das	:	
Application No. 08/756,776	:	
Patent No. 6,077,291	:	REQUEST FOR MORE INFORMATION
Filed: November 26, 1996	:	
Issue Date: June 20, 2000	:	
Attorney Docket Number:	:	
16848.11.7	:	
Title: SEPTAL DEFECT CLOSURE	:	
DEVICE	:	

This is a decision on the renewed petition filed March July 21, 2008, pursuant to 37 C.F.R. § 1.378(e), requesting reconsideration of a prior decision pursuant to 37 C.F.R. § 1.378(b), which refused to accept the delayed payment of maintenance fees for the above-referenced patent. On July 24, 2008, Petitioner submitted a petition pursuant to 37 C.F.R. § 1.182, requesting expedited handling of the renewed petition pursuant to 37 C.F.R. § 1.378(e).

The petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**. The petition pursuant to 37 C.F.R. § 1.378(b) has been accorded expedited handling.

BACKGROUND

The patent issued on June 20, 2000. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R.

§ 1.362(e) expired at midnight on June 20, 2004, with no payment received. Accordingly, the patent expired on June 20, 2004 at midnight.

It is noted that on June 20, 2002, Application No. 10/175,669 was filed for reissue of U.S. Patent No. 6,077,291.

An original petition was filed on March 26, 2008, along with, *inter alia*, the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable, along with the 3½-year maintenance fees and numerous declarations of fact. The original petition was dismissed via the mailing of a decision on May 21, 2008.

ADDITIONAL INQUIRY

Petitioner indicated that the University did not receive a Maintenance Fee Reminder or a Notice of Patent Expiration.[1] However, Petitioner was on notice four years ago that the patent expired when a Maintenance Fee Statement was not received from the Office.

Moreover, Petitioner was on notice four years ago that the patent expired when a notice was published in the Official Gazette.

If Petitioner was on notice four years ago that the patent had expired, how can it be asserted that the entire period of delay in submitting the 3½-year maintenance fee was unavoidable?

CONCLUSION

Any response to this inquiry must be filed within **ONE MONTH** of the mailing date of this communication. **This time period is not extendable.** After decision on the petition for reconsideration and the response to this inquiry, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that 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

1 Corgard declaration submitted with original petition, paragraph 17.

persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Petitioner must provide documentation and address the deficiencies noted above.

If on response to this inquiry, the delayed payment of the maintenance fee is not accepted, then the maintenance fee is subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for responding to this inquiry, if none is filed.

The response to this inquiry should be entitled "Response to Inquiry," and should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

Petitioner is encouraged to file the response to this decision via EFS-Web, and telephone the undersigned after such filing.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address 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 will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
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Correspondence Address, Patent Form (PTO/SB/123), may be found at http://www.uspto.gov/web/forms/sb0123.pdf. A blank fee address form may be found at http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[6].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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P.O. BOX 2938
MINNEAPOLIS MN 55402

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JAN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Gladwin S. Das	:	
Application No. 08/756,776	:	
Patent No. 6,077,291	:	DECISION ON PETITION
Filed: November 26, 1996	:	PURSUANT TO 37 C.F.R.
Issue Date: June 20, 2000	:	§ 1.182 AND RENEWED
Attorney Docket Number:	:	PETITION PURSUANT TO
16848.11.7	:	TO 37 C.F.R. § 1.378(E)
Title: SEPTAL DEFECT CLOSURE	:	
DEVICE	:	

This is a decision on the renewed petition filed July 21, 2008, pursuant to 37 C.F.R. § 1.378(e), requesting reconsideration of a prior decision pursuant to 37 C.F.R. § 1.378(b), which refused to accept the delayed payment of maintenance fees for the above-referenced patent. On July 24, 2008, Petitioner submitted a petition pursuant to 37 C.F.R. § 1.182, requesting expedited handling of the renewed petition pursuant to 37 C.F.R. § 1.378(e).

On August 12, 2008, the Office attempted to mail a Request for More Information. Although this communication is viewable in both Private Pair and the electronic record, due to the fact that this paper does not contain a date stamp, it does not appear that this document was properly mailed. Nevertheless, Petitioner viewed this document in Private Pair, prepared a response, and submitted the same electronically on September 11, 2008. This submission of September 11, 2008 is being treated as a supplement to the renewed petition.

The petition pursuant to 37 C.F.R. § 1.182 is **GRANTED**. The petition pursuant to 37 C.F.R. § 1.378(b) has been accorded expedited handling.

The renewed petition pursuant to 37 C.F.R. § 1.378(b) is **DENIED.**[1]

The patent issued on June 20, 2000. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on June 20, 2004, with no payment received. Accordingly, the patent expired on June 20, 2004 at midnight.

It is noted that on June 20, 2002, Application No. 10/175,669 was filed for reissue of U.S. Patent No. 6,077,291.

An original petition was filed on March 26, 2008, along with, *inter alia*, the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable, along with the 3½-year maintenance fees and numerous declarations of fact. The original petition was dismissed via the mailing of a decision on May 21, 2008.

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. § 1.378(b) must include:

(1) The required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);
(2) The surcharge set forth in 37 C.F.R. § 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.

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1 This decision may be regarded as a final agency action within the meaning of 5 U.S.C. § 704 for the purposes of seeking judicial review. See MPEP § 1002.02.

Petitioner has met the first and second requirements of 37 C.F.R. § 1.378(c). The third requirement has not been met. A discussion follows.

The standard

35 U.S.C. § 41(c)(1) states:

> The Director may accept the payment of any maintenance fee... after the six-month grace period if the delay[2] is shown to the satisfaction of the Director to have been unavoidable.

Rule 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 37 C.F.R. § 1.137(a). This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business[3].

In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account."[4] Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[5]

An adequate showing that the delay in payment of the maintenance fee at issue was unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee

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2 This delay includes the entire period between the due date for the fee and the filing of a grantable petition pursuant to 37 C.F.R. § 1.378(b).
3 In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 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).
4 Smith v. Mossinghoff, 671 F.2d at 538, 213 U.S.P.Q. at 982.
5 Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 C.F.R. § 1.378(b).

Furthermore, under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. Thus, in support of an argument that the delay in payment was unavoidable, evidence is required 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.[6]

Even if the Office were required to provide notice to applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.[7]

Docketing error

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

Such a showing should identify the specific error,[8] the individual who made the error, and the business routine in place

6 See MPEP 2590 (Manual of Patent Examining Procedure, Rev, Aug. 1, 2001).
7 See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters Patent contains a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, Petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

8 Petitioner must identify the error that caused the delay. If the specific error cannot be identified, the petitioner must identify any and all possible causes and prove that any of them, if they were the true cause, constitute unavoidable delay. A full and complete discussion for each possible error must be presented. Petitioner is reminded that a petitioner has the burden of proof.

for performing the action that resulted in the error. The showing must establish that the individual who erred was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. The showing should include information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

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

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

See M.P.E.P. § 711.03(c)(III)(C)(2).

An adequate showing should include (when relevant):

(1) statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them;
(2) a thorough explanation of the docketing and call-up system in use;
(3) identification of the type of records kept;
(4) identification of the persons responsible for the maintenance of the system;
(5) copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing;
(6) include an indication as to why the system failed in this instance, and;
(7) information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described

work which were used to assure proper execution of assigned tasks.

Portions of the Code of Federal Regulations and the M.P.E.P. relevant to the abandonment of this application

37 C.F.R. § 1.362 sets forth, *in pertinent part*:

(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.

M.P.E.P. 2515 sets forth, *in pertinent part*:

If a patent expires because the maintenance fee and any necessary surcharge have not been paid in the manner required by 37 C.F.R. 1.366, the patentee could proceed under 37 C.F.R. 1.378 (see MPEP § 2590), if appropriate, or could file a petition under 37 C.F.R. 1.377 (see MPEP § 2580) within the

period set therein seeking to have the maintenance fee accepted as timely even though not all of the required identifying data was present prior to expiration of the grace period.

Application of the standard to the current facts and circumstances

With the original petition, Petitioner submitted, *inter alia*, a plurality of declarations of fact and affidavits from two University employees, two attorneys who are not of record, and two attorneys of record. With this renewed petition, Petitioner has submitted, *inter alia*, additional declarations of facts.

Petitioner has asserted that the Regents of the University of Minnesota (University) are the patent holder,[9] however Office records do not appear to indicate that an assignment has been recorded with the Office. However, the Regents of Minnesota are listed on the face of the patent as the assignee.

The Office for Technology Commercialization (OTC) is a department within the University that is responsible for intellectual property, as well as the licensing and technology transfer thereof.[10] Mr. Strauss served as the director of the OTC from 1999 - 2006[11], Mr. Moore served as the Director of Health Technologies for OTC from 1999 - 2007,[12] and Mses. Figg Garrison and Corgard are both employees of the OTC.[13]

The OTC utilizes a computer data base entitled the "Technology Information Management System" (TIMS). Information pertaining to an application/patent is placed into this system by Mses. Figg Garrison and Ms. Corgard. If Computer Packages Inc. (CPI) is to track the maintenance fees for a particular patent, the flag "to CPI" is placed in the flag field of the TIMS database.[14]

Data Update Reports are prepared, and are submitted to CPI on a monthly basis, informing the same of any additional patents for

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9 Original petition, page 7.
10 Figg Garrison declaration provided with original petition, paragraph 3.
11 Strauss declaration provided with original petition, paragraph 5.
12 Moore declaration provided with original petition, paragraph 2.
13 Figg Garrison declaration provided with original petition, paragraphs 2-3 and Corgard declaration provided with original petition, paragraphs 2-3.
14 Figg Garrison declaration provided with original petition, paragraphs 3-4, 6, and 9-10. See also Strauss declaration provided with original petition, paragraph 8 and Corgard declaration provided with original petition, paragraphs 4-5.

which CPI is to monitor, or changes to patents for which CPI has already assumed responsibility. CPI uses the information contained in these monthly reports to monitor the University's patents.[15]

Ms. Figg Garrison has set forth that a Ms. Barbara Pledge of CPI informed her that this patent was

> added to CPI's system in December 2001, but was deleted from CPI's system after it was marked 'abandoned' by someone at CPI on July 29, 2002.
>
> Figg Garrison declaration, paragraph 12.

It is noted that with this renewed petition, Petitioner has explained the reason that CPI assumed responsibility for this patent in the absence of an OTC Data Inquiry report.

The OTC is a member of the Association of University Technology Managers (AUTM), which appears to be a trade organization. AUTM conducts annual surveys of its members, and one of the inquiries that is posed to its members is the number of issued patents that are held by each AUTM member.[16] In January of 2001, Mr. Strauss spoke with Ms. Corgard, and expressed his desire to ensure that OTC was "accurately counting for AUTM statistics the number of issued patents owned by the University."[17] Mr. Strauss has no recollection of this particular discussion.[18]

The precise instructions that Mr. Strauss gave to Ms. Corgard so as to ensure that the University would not double-count reissue applications have not been made clear, however a copy of the "contemporaneous notes taken during (her) conversation with Tony Strauss"[19] has been provided, and it is clear that she wrote:

> per TS - 1-2-01
> Reissued Patents replace (emphasis included) the last one. Mark the parent patent abandoned as soon as the Reissue app is filed. Do include it in the counts of active issued patents. (per AUTM instructions) - e-mailed VW 1-10-01

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15 Figg Garrison declaration, paragraph 10.
16 See AUTM survey of 2007 provided with original petition, Figg Garrison declaration provided with original petition, paragraph 26, Strauss declaration provided with original petition, paragraphs 18-19, and Corgard declaration provided with original petition, paragraph 26 .
17 Corgard declaration provided with original petition, paragraph 26.
18 Strauss declaration provided with original petition, paragraph 18.
19 Corgard declaration provided with original petition, paragraph 27.

Consequently, when reissue application 10/175,669 was filed, Ms. Corgard updated the file in TIMS that is associated with patent number 6,077,291, and entered the word "abandoned" in the "status" field for this patent.[20]

Ms. Corgard has set forth that this entry "may have resulted in someone at CPI thinking the University wanted to abandon the '291 patent and therefore not pay further maintenance fees."[21]

Petitioner has included a copy of a facsimile transmission that was sent from the University to CPI on July 26, 2002, which lists this patent, and includes the text "Status Abandoned." With this renewed petition, Petitioner has indicated that this facsimile transmission constitutes a Data Update Report.[22]

Ms. Wing is the Director of Client Services for CPI.[23] She has set forth that the "journal page...shows that on July 29, 2002, CPI marked the '291 patent 'ABND PER FAX 7/29/02.'"[24]

The decision on the original petition indicated that this patent expired due to three docketing errors: Mr. Strauss' erroneous instruction to Ms. Corgard, Ms. Corgard's erroneous characterization of this patent as abandoned, and CPI's erroneous interpretation of this characterization.

This decision on the renewed petition will address each docketing error separately.

Regarding the Strauss-Corgard Meeting and Notes:

The decision on the original petition set forth, *in pertinent part*:

> Ms. Corgard has set forth that on January 2, 2001, she had a conversation with Mr. Strauss, and Mr. Strauss has indicated that he has no recollection of this particular conversation. The notes that she took contemporaneously with this discussion read, *in pertinent part*, "mark the parent patent abandoned as soon as the Reissue app is filed."

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20 Corgard declaration, paragraph 24.
21 Corgard declaration provided with original petition, paragraph 25.
22 Garrison declaration provided with original petition, paragraph 8.
23 Wing declaration provided with original petition, paragraph 2.
24 Wing declaration provided with original petition, paragraph 7. See also Wing exhibit 1 provided with original petition, page 2.

> This strongly suggests that she was explicitly instructed by Mr. Strauss to mark the parent patent abandoned upon the filing of a reissue application. There does not appear to be any alternate credible explanation that would explain why Ms. Corgard wrote what she did.
>
> Mr. Strauss is an attorney, experienced in the practice of intellectual property development and licensing.[25] Yet it appears that he instructed Ms. Corgard to list this patent as "abandoned" in the TIMS database; the same database that contains the information that is provided to CPI via the monthly Data Update Reports.
>
> Section 711.03(c)(II)(C)(2) of the M.P.E.P. sets forth a method where a similar mistake can be characterized as unavoidable, but only when the actor was an employee such as a docket clerk or a paralegal. When the actor is am (sic) attorney, he is held to a higher standard than one of these aforementioned employees. As such, Mr. Strauss' erroneous instruction cannot be characterized as unavoidable.
>
> Decision on original petition, pages 9-10.

With this renewed petition, Petitioner has asserted

> ...the record simply fails to provide a basis for concluding that Mr. Strauss made any error—much less a clerical error - in this matter.
>
> Renewed petition, page 6.

Due to the fact that this documentation was made prior to the filing of this reissue application, it appears that this statement was directed generally towards reissue applications,[26] and not towards this particular application.

Mr. Strauss has asserted that these contemporaneous notes should "not be treated as an accurate record of the exact conversation we had relative to ensuring a correct count of the University's patent portfolio,"[27] and that the notes are "logical...only if the word 'filed' is replaced with the word 'issued."[28] As such, Mr. Strauss is asserting that Ms. Corgard, an employee he has characterized as "an excellent employee who always carried out her assigned tasks in a reliable manner,"[29] did not accurately record the conversation that took place.

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25 Strauss declaration provided with original petition, paragraphs 1-5.
26 See renewed petition, page 7.
27 Strauss declaration provided with original petition, paragraph 16.
28 Id.
29 Id. at 14.

Yet Mr. Strauss has conceded "I no longer recall the exact words I used."[30] There is much confusion and speculation as to what occurred at this meeting and it is not established by the evidence presented that this statement can definitively be attributed to Mr. Strauss.

Ms. Corgard has been described as "well-trained, conscientious and detail-oriented (emphasis added)," [31] as well as a "reliable and dependable OTC employee of long standing," held in the "highest regard" by her co-workers.[32] Ms. Corgard has asserted that she has "always received favorable reviews for [her] work,"[33] an assertion that is confirmed in the tenth paragraph of the Garrison declaration that was provided with the renewed petition. Moreover, Ms. Garrison was Ms. Corgard's supervisor, and she has added that Ms. Corgard's reports were "reliable," her work was of a "characteristically accurate nature (emphasis added)," and her work was "consistently rated...as outstanding."

Ms. Corgard has provided a supplemental declaration with this renewed petition, and she has commented that "unless he misspoke, I may have misunderstood Mr. Strauss or may have written one word incorrectly[34]." As such, Ms. Corgard has alleged that it is possible that she misunderstood Mr. Strauss's instructions.

Therefore, with this renewed petition, Petitioner has placed the Office in the position where a decision must be made as to which alternate scenario is more likely: Mr. Strauss's interpretation of a recordation of a directive that he issued during a conversation which he has no recollection of, or the possibility that Ms. Corgard's contemporaneous recordation accurately records the words of Mr. Strauss. Determining which statement is accurate is difficult at best. It must be noted that Petitioner only argues for one possibility (that the notes of Ms. Corgard are inaccurate) and does not address the other possibility. Even accepting this most favorable interpretation of the facts, this petition must still be denied, as set forth below.

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30 Id. at 16.
31 Moore declaration provided with renewed petition, paragraph 9.
32 Garrison declaration provided with renewed petition, paragraph 10.
33 Corgard declaration provided with renewed petition, paragraph 23.
34 Id. at 12.

Regarding Ms. Corgard's docketing error:

With the original petition, Petitioner identified the error that was the cause of the delay at issue, and established that a business routine was in place for performing the clerical function that could reasonably be relied upon to avoid errors in its performance. Petitioner further provided a thorough explanation of the docketing and call-up system in use, identification of the type of records kept, identification of the persons responsible for the maintenance of the system, an indication as to why the system failed in this instance, that Ms. Corgard was experienced in regards to the use of TIMS, and examples of other work functions carried out by her.

It is noted that with this renewed petition, a statement from Ms. Pledge has been provided. Moreover, Petitioner has established that Ms. Corgard is a trusted employee and that her work is not typically reviewed and she was not typically supervised,[35] has provided examples of other work functions carried out,[36] and has established that annual reviews serve as checks on the described work that were used to assure proper execution of assigned tasks.[37]

However, the decision on the original petition indicated that Petitioner would need to describe the training that was provided to Ms. Corgard. With this renewed petition, it is been set forth that she has worked at the University for more than 20 years,[38] and it is clear that she received instructions regarding the TIMS database "from time to time,"[39] but **the specific training provided to her has not been revealed.**

Moreover, the decision on the original petition inquired

> [I]f Ms. Corgard was sufficiently trained in the usage of the TIMS database, why did she not appreciate the fact that the entry of "abandoned" in the status field would signal to CPI that the University was no longer interested in maintaining this patent?
>
> Decision on original petition, page 10.

35 Garrison declaration provided with renewed petition, paragraph 10. See also Renewed petition, page 14.
36 Renewed petition, page 12.
37 Garrison declaration provided with renewed petition, paragraph 10.
38 Moore declaration provided with renewed petition, paragraph 9. Moore declaration provided with renewed petition, paragraph 9.
39 Corgard declaration provided with renewed petition, paragraph 6.

With this renewed petition, **this question has not been answered.** It has been explained that Ms. Corgard did not appreciate the ramifications of marking a patent as "abandoned,"[40] however this does not answer the question that was posed. As such, this omission must be interpreted as an admission that **Ms. Corgard was not sufficiently trained in this docket system** (particularly when viewed in light of the fact that Petitioner has not described the training provided to her), and as a consequence of this insufficient training, she did not appreciate the consequences of marking a patent as "abandoned." In this regard, the facts further show that Ms. Corgard was not adequately supervised since the marking of a file as "abandoned" was left to her without any type of review of her work. There does not appear to be any type of check within the docketing system to prevent the error.

Additionally, the decision on the original petition indicated that Petitioner had failed to **provide copies of records that exist that would substantiate an error in docketing**, in that:

> ...the notes which Ms. Corgard took contemporaneously with her conversation with Mr. Strauss, she wrote "e-mailed VW 1-10-01." A copy of this e-mail should be provided on renewed petition.
>
> Decision on original petition, page 11.

With this renewed petition, Ms. Corgard has indicated that this e-mail concerned having the University's IT person "modify the query for future AUTM licensing surveys."[41] As such, this e-mail is highly relevant to the issue of the failure to timely submit the 3½-year maintenance fee, as the modification of patent records for the purposes of obtaining accurate information for AUTM licensing surveys is precisely what resulted in the failure to submit the 3½-year maintenance fee in a timely manner. However, a copy of this e-mail has not been provided, due to the fact that it has not been located.

Regarding the docketing error made by an employee of CPI:

With the original petition, Petitioner identified the error that was the cause of the delay at issue, identified the type of

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40 See renewed petition, page 4, section 4, and pages 13-14. See also Corgard declaration provided with renewed petition, paragraph 12.

41 Corgard declaration provided with renewed petition, paragraph 22.

records kept and provided a copy of the same.

With this renewed petition, it has been established that CPI has an established policy that the word "abandoned" is

> commonly used throughout CPI and by many of our clients world-wide to mean that a maintenance fee was not be paid.
>
> Wing declaration provided with renewed petition, paragraph 10.

However, **Petitioner has failed to provide statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.**

The decision on the original petition set forth:

> Petitioner has asserted that an employee of CPI misconstrued the entry "abandoned" to represent an assertion that the University no longer wished for CPI to monitor this patent on its behalf, however it does not appear that Petitioner has identified this CPI employee. On renewed petition, Petitioner will need to both identify this employee and provide a statement from this individual.
>
> Decision on original petition, page 11.

As such, the decision on the original petition expressly indicated that this individual would need to be identified, and a statement would be required from the same. With this renewed petition, this person has been identified as an individual by the name of Matt Howe. However, a statement from Mr. Howe has not been provided, due to the fact that he "left the employ of CPI some time (sic) in 2003."[42] The petition is silent as to any search that was performed for Mr. Howe, and as such, it does not appear that any effort was made to locate this individual.

Moreover, the decision on the original petition set forth:

> ...Petitioner has failed to establish that a business routine was in place for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, in that a thorough explanation of the business system has not been provided.
>
> Decision on original petition, page 11.

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42 Wing declaration provided with renewed petition, paragraph 9. See also renewed petition, page 15.

With this renewed petition, Petitioner has not explained how CPI operates or how it tracks the due dates for maintenance fees. Consequently, it follows that **Petitioner has failed to enumerate the steps taken to ensure timely payment of the maintenance fee,** as is required by 37 C.F.R. § 1.378(b)(3).

Moreover, it is noted that Ms. Wing has explained that all data entries made by Mr. Howe were checked by a "verify team," that was comprised of "highly skilled, long term CPI employees."[43] Consequently, the degree of supervision of his work has been established, and it is clear that checks were made on Mr. Howe's work so as to assure proper execution of assigned tasks.

However, although Ms. Wing has asserted that "Mr. Howe was sufficiently trained and experienced for his type of work,"[44] she has not described the specific training provided to him, and as such, Petitioner has not provided **information regarding the training provided to Mr. Howe**. Moreover, while it has been set forth that he worked in a "different office" from Ms. Wing from "2001-2002,"[45] Ms. Wing has not revealed how long Mr. Howe had performed the specific task of data entry, and as such, Petitioner has not established that Mr. Howe was **sufficiently experienced** in this role. As such, Petitioner has not **established that Mr. Howe was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.**

Furthermore, the petition is silent as to **examples of other work functions carried out by Mr. Howe.**

Additional considerations:

Petitioner has established why CPI assumed responsibility for this patent in the absence of an OTC Data Inquiry report.[46] Petitioner has further established why no one in the OTC noticed that CPI had ever asked for money to submit towards the maintenance fee: the accountant never reviewed the bills that were sent by CPI.[47] Mr. Moore has further

43 Wing declaration provided with renewed petition, paragraph 9.
44 Id.
45 Id.
46 Petition, page 10. See also Garrison declaration provided with renewed petition, paragraph 11.
47 Taneja declaration, paragraph 9.

explained that he never inquired as to the validity of this patent,[48] however this does not answer the question that appears on page 12 of the decision on original petition:

> Moreover, it is not clear why during all of the aforementioned reissue, licensing, and enforcement activities, this fact was overlooked by all interested parties at OTC. **Prior to engaging in reissue, licensing, or enforcement activities, why didn't anyone check to ensure that this patent was valid?**

Similarly, Petitioner has explained that the University was unaware of the expiration of this patent prior to being informed of the same by the opposing side in litigation due to the incorrect assumption that CPI had timely paid the maintenance fee.[49] As such, it appears that they never attempted to ascertain the validity of this patent.

It is noted that with the supplement to the renewed petition, received on September 11, 2008, Petitioner has asserted that when filing a petition pursuant to 37 C.F.R. § 1.378(b), a petitioner is not required to establish that the entire period of delay was unavoidable - only the period of delay subsequent to the patentee actually becoming aware of the expiration of the patent is relevant.[50] Moreover, Petitioner has taken issue with the proposition that publication of the expiration of a patent in the *Official Gazette* places a patentee on notice of the same.[51] Petitioner has also suggested that patentees have no duty to review the *Official Gazette*.[52]

Petitioner has further provided a statement from Ms. Wing, where she has established that on June 1, 2004 (19 days before the expiration of this patent), CPI ceased reviewing maintenance fee statements received from the Office. Prior to this date, maintenance fee statements received from the Office were bundled together and sent to the client.[53] Ms. Wing has also indicated that CPI does not review the list of expired patents that published in the Official Gazette.[54]

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48 Moore declaration provided with renewed petition, paragraph 21.
49 Renewed petition, page 16, sub-paragraph (1).
50 Supplement to the renewed petition, pages 2, 10-11, and 16.
51 Id. at 3-4.
52 Id. at 5.
53 Wing declaration provided with the supplement to the renewed petition, paragraphs 5-6.
54 Id. at 7-8.

Petitioner has also established that OTC employees do not enter maintenance fee statements into TIMS.[55] These maintenance fee statements are not reviewed,[56] and neither are the list of expired patents that are published in the Official Gazette.[57]

CONCLUSION

The prior decision, which refused to accept, under 37 C.F.R § 1.378(b), the delayed payment of the maintenance fee for the above-identified patent, has been reconsidered. For the above stated reasons, the delay cannot be regarded as unavoidable within the meaning of 35 U.S.C. § 41(c)(1) and 37 C.F.R. § 1.378(b).

Since this patent will not be reinstated, Petitioner is entitled to a refund of the surcharge and maintenance fees, but not the $400 fee associated with the filing of this renewed petition pursuant to 37 C.F.R. § 1.378(e). These fees will be refunded to Petitioner's Deposit Account in due course.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address 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 will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of

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55 Corgard declaration provided with the supplement to the renewed petition, paragraph 6. See also Garrison declaration provided with the supplement to the renewed petition, paragraph 6.
56 Corgard declaration provided with the supplement to the renewed petition, paragraph 5. See also Garrison declaration provided with the supplement to the renewed petition, paragraphs 5 and 7 and Strauss declaration provided with the supplement to the renewed petition, paragraph 8.
57 Corgard declaration provided with the supplement to the renewed petition, paragraph 9. See also Garrison declaration provided with the supplement to the renewed petition, paragraph 8 and Strauss declaration provided with the supplement to the renewed petition, paragraph 9.

Correspondence Address, Patent Form (PTO/SB/123), may be found here: http://www.uspto.gov/web/forms/sb0123.pdf. A blank fee address form may be found here: http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[58]

Charles Pearson
Director
Office of Petitions
United States Patent and Trademark Office

cc: Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

58 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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JUN 04 2009

OFFICE OF PETITIONS

In re Application of	:	
Gladwin S. Das	:	
Application No. 08/756,776	:	
Patent No. 6,077,291	:	DECISION ON REQUEST FOR
Filed: November 26, 1996	:	RECONSIDERATION OF
Issue Date: June 20, 2000	:	FINAL AGENCY ACTION VIA THE
Attorney Docket Number:	:	MAILING OF A DECISION
16848.11.7	:	PURSUANT TO
Title: SEPTAL DEFECT CLOSURE	:	TO 37 C.F.R. § 1.378(E)
DEVICE	:	

This is a decision on the "PETITION REQUESTING REVIEW UNDER 37 C.F.R. § 1.181 OR, IN THE ALTERNATIVE, WAIVER UNDER 37 C.F.R. § 1.183, OF THE FINAL AGENCY ACTION MAILED JANUARY 16, 2009, DENYING PETITIONER'S REQUEST TO ACCEPT THE DELAYED PAYMENT OF MAINTENANCE FEE UNDER 37 C.F.R. § 1.378(b)," filed on March 16, 2009. This submission is being treated as a Request for Reconsideration, requesting reconsideration of a decision mailed January 16, 2009, which denied Petitioner's request to have the Office accept the delayed payment of a maintenance fee.

The patent issued on June 20, 2000. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on June 20, 2004, with no payment received. Accordingly, the patent expired on June 20, 2004 at midnight.

It is noted that on June 20, 2002, Application No. 10/175,669 was filed for reissue of U.S. Patent No. 6,077,291.

An original petition was filed on March 26, 2008, along with, *inter alia*, the surcharge associated with a petition to accept late payment of a maintenance fee as unavoidable, along with the 3½-year maintenance fees and numerous declarations of fact. The original petition was dismissed via the mailing of a decision on May 21, 2008.

A renewed petition pursuant to 37 C.F.R. § 1.378(e) was filed on July 21, 2008. On August 12, 2008, the Office attempted to mail a Request for More Information. Although this communication is viewable in both Private Pair and the electronic record, due to the fact that this paper does not contain a date stamp, it does not appear that this document was properly mailed. Nevertheless, Petitioner viewed this document in Private Pair, prepared a response, and submitted the same electronically on September 11, 2008. The submission of September 11, 2008 was treated as a supplement to the renewed petition.

In a final agency action, within the meaning of 35 U.S.C. § 704, mailed January 16, 2009, the renewed petition pursuant to 37 C.F.R. § 1.378(e) which sought the acceptance of the delayed payment of the maintenance fee was **DENIED**. It was concluded, for reasons set forth in the decision, that the delay cannot be regarded as unavoidable within the meaning of 35 U.S.C. § 41(c)(1) and 37 C.F.R. § 1.378(b).

There will be no further consideration of this matter by the Office.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address 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 will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found here: http://www.uspto.gov/web/forms/sb0123.pdf. A blank fee address form may be found here: http://www.uspto.gov/web/forms/sb0047.pdf.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1]

Charles Pearson
Director
Office of Petitions
United States Patent and Trademark Office

cc: Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No. 24

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FEB 13 2004

OFFICE OF PETITIONS

In re Application of :
Beaman et al. :
Application No. 08/756,830 :
Filed: November 20, 1996 :
Attorney Docket No. :
YO995-023X :

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 7, 2003, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed November 19, 1998, which set a statutory period for reply of three (3) months. Extensions of time were available under 37 CFR 1.136. No extensions having been obtained, and no response to the Notice having been received, the application became abandoned on February 20, 1999. A Notice of Abandonment was mailed on January 4, 2000.

Corrected formal drawings have been previously filed on June 11, 2002.

This application is being retained in the Office of Petitions for consideration of the Petition for Corrected Filing Receipt and Request for Correction of the Claim of Priority Under 37 CFR 1.78, filed on October 7, 2003.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 28

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OCT 2 8 2004

OFFICE OF PETITIONS

In re Application of :
Beaman et al. :
Application No. 08/756,830 :
Filed: November 20, 1996 : ON PETITION
Attorney Docket No. :
YO995-023X :

This is a decision on the Petition for Corrected Filing Receipt and Request for Correction of the Claim of Priority Under 37 CFR 1.78, filed March 19, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior filed nonprovisional application, number 08/425,543, filed April 20, 1995 and now abandoned, which is a continuation-in-part of nonprovisional application no. 08/300,620 filed September 2, 1994, now U.S. Patent No. 5,531,022, issued on July 2, 1996, which is a division of U.S. application 07/963,346, filed on October 19, 2002, and now U.S. Patent No. 5,371,654, issued on December 6, 1994.

This Petition is hereby **dismissed as moot**.

The instant application was filed on November 20, 1996. Petitions under 37 CFR 1.78(a)(6) for acceptance of a delayed priority claim under 35 U.S.C. § 119 and under 37 CFR 1.78(a)(3) for acceptance of a delayed priority claim under 35 U.S.C. § 120 are only applicable to those applications filed on or after November 29, 2000. See MPEP § 201.11 and 65 FR 57024 (Sept. 20, 2000). Therefore, the petition is dismissed as involving a moot issue.

Applicant is advised to file a Certificate of Correction to effect the requested claim for priority and corrected filing receipt. *See* Manual for Patent Examining Procedure ("MPEP") § 1481.

In view of the above, Petitioner's Deposit Account has not been charged the fee for acceptance of an unintentionally delayed claim of priority.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Charles Pearson
Director
Office of Petitions

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)
6123733	2000-09-26	08/757,557	1996-11-27	49238.1900

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	/Howard I. Sobelman/	Date (YYYY-MM-DD)	2008-09-29
Name	Howard I Sobelman	Registration Number	39038

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. 6123733
Issue Date: September 26,2000
Application No. 08757557
Filed: November 27,1996
Attorney Docket No. 09981.1900

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

This is a decision on the electronic petition, filed September 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 September 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.

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MAY 24 2006
OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

In re Application of :
Wood : DECISION ON PETITION
Application No. 08/758,425 :
Filed: November 29, 1996 :
Docket No.: TI-22772 :

The above-identified application has been directed to the Office of Petitions in reference to the communications received March 28, 2005 and March 10, 2006, petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

The application was held abandoned June 30, 2002 for failure to timely submit a proper reply to the Board decision mailed April 29, 2002, which set a two month non-extendible period of time for reply. Notice of Abandonment was mailed July 30, 2002.

Petitioner asserts non-receipt of the Board decision mailed April 29, 2002.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication 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.

Petitioner's arguments and supporting documentation have been carefully considered and support petitioner's conclusion that the Board decision of April 29, 2002 was not received.

The papers submitted on March 28, 2005 do not state that they are a true copy of the earlier filed papers. However, in view of the petition filed March 10, 2006, the Office is construing said papers to be a true copy of the earlier filed petition. Should the above inference be incorrect, petitioner must immediately notify the Office in writing of this error.

In view thereof, the Notice of Abandonment mailed July 30, 2002 is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being forwarded to the Publications Division for processing into a patent.

Telephone inquiries regarding 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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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MAY 26 2006

OFFICE OF PETITIONS

In re Application of :
Wood :
Application No. 08/758,425 : Decision on Petition for
Filing Date: November 29, 1996 : Patent Term Extension
For: COMPUTER DISPLAY WITH :
SWITCHED CAPACITOR POWER SUPPLY :

The above-identified application has been forwarded to the undersigned for consideration on the "Petition for Extension Of Patent Term Due to Examination Delay – 37 CFR 1.181," which was received on January 10, 2005, requesting a patent term extension due to the Office delays in issuance of the patent. See 35 U.S.C. § 154(b)[1] and 37 C.F.R. § 1.701.

The petition under 37 CFR 1.181 is granted-in-part.

Petitioner notes that the Notice of Allowance dated December 6, 2004, in the above-identified application incorrectly stated that the patent term extension is 0 days. Petitioner states that the application is entitled to patent term extension due to examination delay from May 7, 1999, the date the Appeal Brief was filed to January 15, 2004, the date of the decision for the Rehearing.

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 March 12, 1999. On January 15, 2004, a panel of the Board of Patent Appeals and Interferences (BPAI) affirmed-in-part the decision of the examiner (Decision on Request for Rehearing) 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

[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.

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 March 12, 1999, the date that the Notice of Appeal was filed and ending on January 15, 2004, the date of the final decision in favor of the applicant. Three years after the earliest effective filing date of the application is November 29, 1999. 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 1,509 days, the period from November 29, 1999 to January 15, 2004 including the beginning and end dates.

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 **1,509-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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 26

Joseph A. Walkowski
Trask Britt & Rossa
PO Box 2550
Salt Lake City, UT 84110

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Charles H. Dennison et al. :
Application No. 08/759,058 : ON PETITION
Filed: October 7, 1996 :
Attorney Docket No. 91-0473.01/R :

This is a decision on the petition under 37 CFR 1.137(b), filed January 4, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the final Office action mailed June 26, 2000. A one-month extension of time accompanied by an Amendment was filed on October 26, 2000. The response did not place the application in condition for allowance. Therefore, the application became abandoned on October 27, 2000.

The above-identified application is being forwarded to Technology Center AU 2813 for review of the request for continued examination (RCE) filed January 4, 2001.

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 Examinatin Policy

OIPE JC161
MAR 14 2005
PATENT & TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231

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Trask Britt & Rossa

JOSEPH A. WALKOWSKI
TRASK BRITT & ROSSA
P.O. BOX 2550
SALT LAKE CITY, UTAH 84110

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SPECIAL PROGRAMS OFFICE
OAC FOR PATENTS

In re Reissue Application of:
Dennison et al.
Reissue Application No. 08/572,135
Filed: December 14, 1995
Original Pat. No. 5,270,241
Issue Date: December 14, 1993
Application No. 07/973,092
Filed: November 6, 1992

In re Reissue Application of:
Dennison et al.
Reissue Application No. 08/759,058
Filed: October 7, 1996
Original Pat. No. 5,270,241
Issue Date: December 14, 1993
Application No. 07/973,092
Filed: November 6, 1992

ON PETITION

This is a decision on the petition filed June 10, 1997, requesting under 37 CFR 1.183 waiver of the one year filing requirement of 37 CFR 1.137(b), and revival of application No. 08/572,135. The petition is also being treated as a request to merge the two above-noted files.[1]

The petitions are GRANTED.

Papers for the `135 reissue application were deposited on December 14, 1995. On February 12, 1996, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Application Filing Date Granted, which required an executed oath or declaration, the assent of the assignee, the filing fee, and late filing surcharge. The Notice accorded applicants the longer of one month from the Notice, or two months from the filing date, whichever was later, to reply to the Notice. Petitioners concededly received the Notice, which however, was never properly

[1] The petition is being treated under the rules in effect at the time the petition was filed.

MAR 18 2005

Best Available Copy

brought to the attention of petitioner and, as such, petitioners were not adequately and timely apprised of the necessity to reply. Nevertheless, petitioners supplied the missing parts, which were received at the PTO on October 7, 1996, and as the Notice did not accompany the response to the PTO, the PTO created a new application No. (08/759,058) and file, and accorded such a filing date of October 7, 1996. As no response to the Notice was filed within the time period set, and no extensions of time were obtained under 37 CFR 1.136(a), the `135 application became abandoned on March 12, 1996. The date of abandonment is March 13, 1996. A Notice of Abandonment was not mailed in the `135 application until July 11, 1997; that is, subsequent to the filing of the instant petition. No further prosecution of the `135 file has ensued.

However, the papers fortuitously deposited to complete the `135 application file were, by way of inadvertent PTO error, given a separate filing date, and became application No. 08/759,058. Nevertheless, prosecution on the merits has proceeded.

Accordingly, under the extraordinary circumstances of the above-noted application files, it is appropriate to waive the one year filing requirement of former 37 CFR 1.137(b) and to revive the `135 application. Accordingly, the petition to waive the one year filing requirement and to revive the `135 application is granted. Under the circumstances of these cases, a terminal disclaimer will not be required.

In order to remedy the current situation which has arisen due to PTO error, the petition is also being treated, *sua sponte*, as a request to merge the two files. That is, as the `058 application file has already entered the examination process, it is appropriate that the merged file will retain application No. 08/759,058, and will also retain the filing date of December 14, 1995, already accorded the `135 application, now revived, as the papers submitted to perfect the `135 filing became the `058 file.

The above-noted application files are being returned to the Office of Initial Patent Examination for merging of the file of application No. 08/572,135 into that of application No. 08/759,058. Application No. 08/572,135 will no longer be an active application number. All future correspondence concerning this application number should be directed to application No. 08/759,058.

Application No. 08/759,058 will then be reprocessed by OIPE as a reissue application having the filing date of December 14, 1995, using the transmittal letter and the copy of the specification

MAR 18 2005

filed on December 14, 1995. The other papers will be that of the `058 file. Thereafter application No. 08/759,058 will be returned to Technology Center 2800 for resumption of prosecution.

The fees paid to date (other than the revival fees) in the `135 application, totaling $1617 have been credited to deposit account No. 23-0575. The inconvenience to applicant is regretted.

Telephone inquiries relevant to this decision may be directed to Special Projects Examiner Brian Hearn at (703) 305-1820.

Abraham Hershkovitz
Director, Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

MAR 18 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 29

JOHN R SCHENIAN
KIMBERLY CLARK CORPORATION
401 NORTH LAKE STREET
NEENAH, WI 54956

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SEP 1 3 2001

OFFICE OF PETITIONS

In re Application of
Qin et al.
Application No. 08/759,108
Filed: December 2, 1996
Attorney Docket No. 12,975

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 21, 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 January 8, 2001, and no extensions of time under the provisions of 37 CFR 1.136(b) 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 March 9, 2001. See MPEP 1215.04.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1700.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
5837730	1998-11-17	08759681	1996-12-06	50821-137

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	/Loren R. Hulse/	Date (YYYY-MM-DD)	2008-10-29
Name	Loren R. Hulse	Registration Number	46784

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. 5837730
Issue Date: November 17,1998
Application No. 08759681
Filed: December 6,1996
Attorney Docket No. A6708

:
: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.

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 8-8-02 Paper No.: 17

TO : Supervisor, Art Unit 3737

SUBJECT : Certificate of Correction Request in Patent No.: 5823879

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

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 th scope or meaning of the claims be changed.

Don Fairchild

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. NO. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

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

☒ YES ☑ NO ☑ Comments below

☑ Comments: The patent should read as shown if the references are considered by the examiner; however, the references were not considered. The IDS cannot now be considered in a patented application

Supervisor

3737
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 21

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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MAY 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Sheldon F. Goldberg et al.	:	
Application No. 08/759,895	:	
Patent No. 5,823,879	:	DECISION ON PETITION
Filed: December 3, 1996	:	PURSUANT TO
Issue Date: October 20, 1998	:	37 C.F.R. § 1.28(c)
Attorney Docket No. 3367-2	:	
Title: NETWORK GAMING SYSTEM	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on December 21, 2007. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

After the mailing of this decision, the application file will be sent to **Files Repository**.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

PTO/SB/44 (10-96)
Approved for use through 6/30/99. OMB 061-0033
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 5,823,879
DATED : October 20, 1998
INVENTORS : GOLDBERG et al.

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

In the list of References Cited, please add U.S. Patent Nos. 5,141,234; 5,083,271; and 3,796,433.

In the list of References Cited, please delete "U.S. Patent No. 5129549" and insert –U.S. Patent No. 5159549 issued on October 27, 1992– therefor.

MAILING ADDRESS OF SENDER:

Dennis J. Dupray
SHERIDAN ROSS P.C.
1560 Broadway
SUITE 1200
DENVER, COLORADO 80202-5141

PATENT NO. 5,823,879

No. of additional copies

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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 Patents, Washington, DC 20231.
J:\3367\-2\Certificate of Correction-02-1050.wpd

UNITED STATES 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. 5779624
Issue Date: July 14,1998
Application No. 08760704
Filed: December 5,1996
Attorney Docket No. RAR105.02

:
: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.

Pet. Dec.

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Mailed: FEB 7 2005

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Paper Number

In re application of :
Alec Mian et al.. : DECISION ON
Serial No. 08/761,063 : PETITION
Filed: December 05,1996 :
For: DEVICES AND METHODS FOR USING CENTRIPETAL ACCELERATION TO DRIVE FLUID MOVEMENT IN A MICROFLUIDICS SYSTEM WITH ON-BOARD INFORMATICS :

This is a response to the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT IN THE ALTERNATIVE, REVIVAL OF APPLICATION UNDER C.F.R. §1.137 filed July 15, 2004 . The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 27, 2004, for failure to timely file a proper reply to the Decision on Appeal of January 30, 2004, be withdrawn since the applicants did timely file a Request for Continuing Examination(RCE) thereto on March 31, 2004.

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on March 31, 2004.;as the mailing date of the Decision on Appeal was January 30, 2004 as evidenced by the cover sheet(PTO-90C) mailing date and under 37 CFR 1.304(b) applicant is given two months to respond except that one day shall be added to any two month period which includes February 28th. Thus applicant's period for response expired on March 31, 2004 and as applicant filed the response on March 31, 2004; the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Decision on Appeal of January 30, 2004 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers originally filed March 31, 2004 and a copy of which is provided as an attachment to the instant petition.

The Petition is **GRANTED**.

JStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Chicago,IL 60606

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Commissioner for Patents
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APR 24 2009

OFFICE OF PETITIONS

McDonnell Boehnen Hulbert & Berghoff, Ltd.
300 South Wacker Drive
Chicago, IL 60606

In re Application	:	
Alec Mian et al.	:	
Application No. 08/761,063	:	DECISION ON PETITION
Filed: December 5, 1996	:	
Attorney Docket No. 95.1408-D	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed April 18, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 19, 2008. A Notice of Abandonment was mailed on December 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the amendment is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350 extension of time fee submitted with the petition on April 10, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney 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. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received April 10, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Deborah Lu
Frommer, Lawrence & Haug, LLP
745 Fifth Avenue
New York, NY 10151

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

#10

NASH & TITUS LLC
3415 BROOKEVILLE ROAD
SUITE 1000
BROOKEVILLE, MD 20833

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JAN 25 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Daniel L. Jarboe et al.
Application No. 08/762,757
Filed: December 10, 1996
Attorney Docket No. ARMY 116

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 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 September 29, 1997, 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 30, 1997.

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 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).

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

The application file is being forwarded to Technology Center 1600.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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21402 UNISON RD
MIDDLEBURG VA 20117

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OFFICE OF PETITIONS

In re Application of
Daniel L. Jarboe et al.
Application No. 08/762,757
Filed: December 10, 1996
Title of Invention: **ORAL-INTESTINAL VACCINES AGAINST DISEASES CAUSED BY ENTEROPATHIC ORGANISMS USING ANTIGENS ENCAPSULATED WITHIN BIODEGRADABLE-BIOCOMPATIBLE MICROSPHERES**

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3) filed October 25, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional applications 08/396,986, 08/191,374 and 07/690,485.

The petition is **GRANTED**.

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

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

In response to the non-Final Office Action mailed May 30, 2007, the instant petition is filed to claim the benefit of the prior filed applications noted in the amendment filed October 25, 2007 with the instant petition.

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

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1644 for appropriate action on the amendment filed October 25, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
08/762,757	12/10/1996	1644	1232		41	2

CONFIRMATION NO. 2430

30951
NASH & TITUS, LLC
21402 UNISON RD
MIDDLEBURG, VA 20117

CORRECTED FILING RECEIPT

Date Mailed: 03/11/2008

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

Applicant(s)

DANIEL L. JARBOE, SEBASTIAN, FL;
ROBERT H. REID, KENSINGTON, MD;
EDGAR C. BOEDEKER, CHEVY CHASE, MD;
FREDERICK J. CASSELS, GAITHERSBURG, MD;

Power of Attorney:
Werten Bellamy--27029
Charles Harris--34616
Caroline Nash--36329

Domestic Priority data as claimed by applicant

This application is a CON of 08/396,986 03/01/1995 ABN
which is a CIP of 07/521,945 05/11/1990 ABN
which is a CIP of 06/590,308 03/16/1984 ABN
and said 08/396,986 03/01/1995
is a CON of 03/191,374 04/06/1994 ABN
which is a CON of 07/690,485 04/24/1991 ABN
which is a CIP of 07/521,945 05/11/1990 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 03/14/1997

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 08/762,757**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

ORAL-INTESTINAL VACCINES AGAINST DISEASES CAUSED BY ENTEROPATHIC ORGANISMS USING ANTIGENS ENCAPSULATED WITHIN BIODEGRADABLE-BIOCOMPATIBLE MICROSPHERES

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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)
6007236	1999-12-28	08763053	1996-12-10	40526.01801

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 N. QUINN/	Date (YYYY-MM-DD)	2009-06-03
Name	Charles N. Quinn	Registration Number	27223

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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In re Patent No. 6007236
Issue Date: December 28,1999
Application No. 08763053
Filed: December 10,1996
Attorney Docket No. 1179-96

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

This is a decision on the electronic petition, filed June 3,2009 ,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 3,2009 . 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.

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)
5,830,442	1998-11-03	08/763,114	1996-12-10	E8758-1

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	/GregoryMLuck/	Date (YYYY-MM-DD)	2008-10-15
Name	Gregory M. Luck	Registration Number	32770

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. 5830442
Issue Date: November 3,1998
Application No. 08763114
Filed: December 10,1996
Attorney Docket No. A-5594.CIP

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

This is a decision on the electronic petition, filed October 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 October 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 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. 5715153
Issue Date: February 3,1998
Application No. 08763685
Filed: December 11,1996
Attorney Docket No. 05520/007001

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

This is a decision on the electronic petition, filed April 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 April 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.

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)
5715153	1998-02-03	08763685	1996-12-11	003781

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	/Mark J. Patterson/	Date (YYYY-MM-DD)	2010-04-08
Name	Mark J. Patterson	Registration Number	30412

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.

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Paper No. 34

Mark G. Hanley
GROSSMAN & FLIGHT LLC
20 North Wacker Drive
Suite 4220
Chicago, IL 60606

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APR 07 2004

OFFICE OF PETITIONS

In re Application of
Daozheng LU et al.
Application No. 08/763,750
Filed: December 11, 1996
Attorney Docket No. 212722.00068

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned for failure to file a proper and timely response to the final Office action, mailed May 15, 2003. No extensions of time were requested pursuant to 37 CFR 1.136(a).

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b).

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 $950.00 extension of time submitted with the petition on November 21, 2003 is subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account 50-2455.

The application file is being forwarded to Technology Center 2600 for treatment of the Request for Continued Examination (RCE) and the Information Disclosure Statement filed herewith, and the amendment filed July 18, 2003 which, by submission of the RCE, is automatically entered into the application file for consideration by the Examiner. See MPEP 706.07(h)(III)(D).

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-3865.

BethAnne Dayoan
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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ALEXANDRIA, VA 22313-1450
www.uspto.gov

Hanley, Flight & Zimmerman, LLC
150 S. Wacker Dr. Suite 2100
Chicago IL 60606

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OFFICE OF PETITIONS

In re Application of
Lu, et al.
Application No. 08/763,750
Filed: December 11, 1996
Atty. Dkt. No.: 20004/16-US

: LETTER REGARDING PTA

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT/REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR § 1.705(b)," filed April 30, 2009. Applicant requests that the determination of patent term extension of zero days in this application be corrected to a determination of patent term adjustment of 1,751 days

The petition is DISMISSED.

On April 16, 2009, the Office mailed the Determination of Patent Term Extension under 35 U.S.C. 154(b)(application filed after June 7, 1995 but prior to May 29, 2000) in the above-identified application. The Notice stated that the patent term extension to date is 0 days. Applicant asserts entitlement to a period of adjustment of 1,751 days.

The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term due to examination delay. The provisions of § 154(b) related to adjustment of patent term due to administrative delays apply only to original applications, other than designs, filed on or after May 29, 2000. The provisions do not apply to an application filed before May 29, 2000.

Since the instant application was filed on December 11, 1996, which is before May 29, 2000, this application is not eligible for patent term adjustment under 35 U.S.C. 154. The Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

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

Telephone inquiries on 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

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

Paper No. 34

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

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MAY 1 9 2003

OFFICE OF PETITIONS

In re Application of
Yuhpyng L. Chen
Application No. 08/764,110
Filed: December 6, 1996
Title: SUBSTITUTED HETEROCYCLIC DERIVATIVES

DECISION DISMISSING
PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed on September 27, 2002, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed June 27, 2001, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time pursuant to 37 CFR 1.136 were obtained. Accordingly, the above-identified application became abandoned on September 28, 2001. A Notice of Abandonment was mailed on May 7, 2002.

With this petition, the petitioner submitted a response, paid the petition fee, and made the proper statement of unintentional delay.

---

1 A grantable petition pursuant to 37 CFR §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

The instant petition is not grantable because requirement (1) above has not been satisfied. Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[2]. In order for the application to be revived, petitioner must submit a reply which satisfies 37 C.F.R. §1.137(b)(1) (i.e., a Notice of Appeal (and fee required by law); an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. §1.53(b); a request for continuing examination under 37 C.F.R. §1.114, if applicable; or a 37 C.F.R. §1.129(a) submission, if applicable). An amendment was received along with the instant petition. This amendment was considered by the Examiner, but it failed to place the application in condition for allowance. A courtesy copy of the Examiner's Advisory Action has been enclosed.

Consequently, the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

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

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address 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 will not receive future correspondence related to maintenance fees unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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[6]. In the event that such an

---

[2] See M.P.E.P. 711.03(c).

3 Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1460, Alexandria, VA 22313-1460. **Note that this is a new address, as the USPTO has changed addresses as of May 1, 2003.**

4 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

5 (703) 308-6916, Attn: Office of Petitions.

6 See 37 CFR 10.18(b); cf. 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).

inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in filing this petition 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

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

cc: John Richards
c/o Ladas and Parry
26 West 61st Street
New York, NY 10023

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. 37

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

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SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of
Yuhpyng L. Chen
Application No. 08/764,110
Filed: December 6, 1996
Title: SUBSTITUTED HETEROCYCLIC DERIVATIVES

DECISION PEITTION UNDER
37 C.F.R. §1.137(b)

This is a decision on the renewed petition filed on August 29, 2003, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed June 27, 2001, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time pursuant to 37 CFR 1.136 were obtained. Accordingly, the above-identified application became abandoned on September 28, 2001. A Notice of Abandonment was mailed on May 7, 2002.

The original petition was submitted on September 27, 2002, and was dismissed via the mailing of a petition on May 19, 2003.

With this petition, the petitioner submitted a response in the form of a Notice of Appeal, submitted the appropriate fee, paid the petition fee, and made the proper statement of unintentional delay.

---

1 A grantable petition pursuant to 37 CFR §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

Accordingly, the petition is **GRANTED**.

The Notice of Appeal filed on August 29, 2003, has been entered and made of record. Accordingly, **the two (2) month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the mailing date of thfsis decision**.

The application file is being forwarded to Technology Center 1600 for processing of the Notice of Appeal.

It is noted that the petitioner has also submitted a request for a corrected filing receipt and a request to add associate power of attorney. Due to a software problem in the Office, these requests cannot be fulfilled at this time. In order to avoid delaying the revival of this application, this decision will be mailed without a corrected filing receipt or the addition of the associate power of attorney. The applicant is invited to re-submit these requests to the Technology Center at a later date.

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

Paul Shanoski
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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 19 2007

OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of :
Hidekazu Watanabe et al. :
Application No. 08/764,394 : DECISION ON PETITION
Filed: December 11, 1996 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: :
7217/52300 :
Title: TELEPHONE APPARATUS USED :
FOR COMPUTER NETWORK TELEPHONE :
SYSTEM :

This is a decision on the petition, filed on June 12, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed December 17, 1999, which set a shortened statutory period for reply of three months. No

1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 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.

extensions of time are permitted for transmitting issue fees[2]. Accordingly, the above-identified application became abandoned on March 18, 2000. A Notice of Abandonment was mailed on June 29, 2000.

Almost six years later, the present petition was filed, along with the petition fee and a statement of facts. Petitioner has met the first and second requirements of Rule §1.137(b). The fourth requirement is not applicable.

Regarding the third requirement, Petitioner has not established that the entire period of delay was unintentional. It is noted that almost six years passed between the mailing of the notice of abandonment and the filing of the present petition.

Petitioner asserts that "on or about December 9, 2005[3]," Applicant requested the law firm of Cooper and Dunham to transfer the present file to Petitioner's law firm. The present petition was not filed until June 12, 2006. It is not clear why a registered practitioner would wait more than six months after the file was requested before filing this petition and the issue fee.

Petitioner has asserted that the notice of abandonment was located in the file, along with a letter dated December 14, 1999, signed by Mr. Maioli (an attorney at Cooper and Dunham and the former attorney of record) and sent to the applicant's General Manager, where Mr. Maioli indicated that a notice of allowance would be forthcoming. Petitioner further located the following items in the file:

- an unsigned letter from Mr. Maioli to the applicant's General Manager concerning the abandonment;
- an unsigned draft petition dated January 18, 2001;
- an unsigned declaration of Mr. Maioli;
- an unsigned declaration of Mr. Dunn (the man responsible for the docketing department at Cooper and Dunham);
- an unsigned declaration of Mr. Breland (the man in charge of the mailroom at Cooper and Dunham);
- two unsigned checks from Cooper and Dunham to the PTO for the petition and issue fees;
- a postcard, and;
- a draft petition dated December 13, 2001.

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2 See MPEP §710.02(e).
3 Petition, page 1.

Petitioner has asserted that each of these bulleted items was "loosely contained in the file, i.e. they were not bound into the file jacket[4]." The significance of the fact that these papers were not secured to the file jacket, if any, is not appreciated by the undersigned.

As such, it appears that at some point, Mr. Maioli might have intended to file a petition with the Office to seek the revival of this application, but for unknown reasons, never signed or filed this petition.

It is noted in passing that Petitioner has asserted that the unsigned petition that has been found in the file was incorrectly titled as "unavoidable delay" rather than "unintentional delay[5]." It is not clear what would cause Petitioner's representative to arrive at the conclusion that the title of the petition was incorrect: it is noted that the petition contains a statement of *unavoidable* delay, and makes reference to a check in the amount of $110, which at the time was the fee associated with the filing of a petition to revive under the unavoidable standard.

As discussed above, Petitioner has submitted non-executed declarations from Messrs. Maioli, Dunn, and Breland, presumably to attempt to establish that the notice of allowance and issue fee due was not received by the law firm of Cooper and Dunham. However, none of these declarations can be accepted, since none has been executed. See 37 C.F.R. §1.4 and MPEP §502.02.

Moreover, it is not clear why both the Applicant and former counsel chose to take no course of action for such a long period of time. It does not appear that either the Applicant or any member of Cooper and Dunham took any action to further the prosecution of this application[6]. It seems that it would be unreasonable for either an applicant or their representative to mail or receive a letter which indicated that a notice of allowance and issue fee due was soon expected from the Office, and after not receiving any correspondence from the Office for an extended period of time, not realize that something had gone amiss.

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4 Id. at 2.
5 Petition, page 4.
6 Cooper and Dunham prepared declarations and drafted a petition, however none of these documents was either signed, or submitted to the Office. As such, no action was undertaken by Cooper and Dunham that was reasonably apprised to seek the revival of this application.

It is equally unclear what, after all of this time, prompted the Applicant to advance the prosecution of this application.

As such, it appears that both the Applicant and his attorney(s) intentionally allowed this application to go abandoned.

The extended inaction of the members of Cooper and Dunham, the Applicant, and current counsel appears to be intentional, and Petitioner does not appear to have submitted a statement of facts from any member of Cooper and Dunham[7] or the Applicant which would assert a contrary position.

In order for a petition under 37 C.F.R. §1.137(b) to be granted, the holder of the rights to the application must have unintentionally allowed the application to go abandoned, and a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 C.F.R. §1.137(b).

The periods of delay:

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

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 C.F.R. §1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 C.F.R. §1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1), (2), or (3).

As to Period (1), the patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or

7 Statements from members of Cooper and Dunham have been submitted, however as discussed above, they cannot be accepted.

unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay of more than six years in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment. That party, in turn must explain what effort(s) was made to reply to the outstanding Office action and further, why no reply was filed. If no effort was made to reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as the law firm of Cooper and Dunham was counsel of record at the date of abandonment, an individual from Cooper and Dunham should explain why this application became abandoned while it was under their control and what efforts Cooper and Dunham made to advance the prosecution of this application, and with whom this matter was discussed outside of Cooper and Dunham. Petitioner has provided a copy of one piece of correspondence relating to the failure to file the issue fee in a timely manner. Are there any others present in the file from whoever else was involved with this application at the time of abandonment? Statements are required from any and all persons then at Cooper and Dunham, and the

responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action (such as Mr. Maioli). As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished)(patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

Petitioner has set forth that "the previous attorney, Jay H. Maioli, is no longer employed with the firm of Cooper and Dunham LLP and therefore is not available to provide any further information[8]." However, it does not appear that Petitioner has made any effort to contact this individual in order to seek the obtainment of a statement of facts from the same. Furthermore, it is not clear why Mr. Maioli is the only individual who could provide information pertaining to Cooper and Dunham's inaction.

As to Period (2), where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 C.F.R. §1.137(b)[9].

The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the

8 Petition, page 2.
9 See MPEP 711.03(c).

abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated clear that any protracted delay (here, six years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Cooper and Dunham, and the responsible person(s) (such as Mr. Maioli) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

Moreover, the presence of declarations and a petition to revive which were prepared, but neither executed nor submitted to the Office, appears to constitute evidence that a conscious decision was made not to seek the revival of this application.

As to Period (3), it is not clear when the present law firm of record received the present file. Petitioner has set forth that "upon receipt of the file, the undersigned attorneys promptly reviewed the file and determined that he application had been abandoned...[10]" It is noted that the Applicant requested Cooper and Dunham to transfer the file to Petitioner on or about December 9, 2005, and that the present petition was not filed until more than six months later - before it can be determined if the present law firm of record acted in a diligent manner, it must first be revealed when the present law firm of record received the file.

Punctuality and Due Diligence:

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded

10 Petition, page 1.

in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

The lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

On renewed petition, Petitioner will need to address each of these issues, if it is to be established that the entire period of delay was not intentional.

Petitioner is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

Pursuant to the discussion above, the petition is **DISMISSED.**

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

Thereafter, there will be no further reconsideration of this matter[11, 12].

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11 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

12 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[13], hand-delivery[14], or facsimile[15].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[16]. 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

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final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

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

14 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

15 (571) 273-8300- please note this is a central facsimile number.

16 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Hidekazu Watanabe et al.	:	
Application No. 08/764,394	:	DECISION ON RENEWED PETITION
Filed: December 11, 1996	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
7217/52300	:	
Title: TELEPHONE APPARATUS USED	:	
FOR COMPUTER NETWORK TELEPHONE	:	
SYSTEM	:	

This is a decision on the renewed petition, pursuant to 37 C.F.R. §1.137(b), to revive the above-identified application, filed on June 21, 2007.

This renewed 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 and Issue Fee Due, mailed December 17, 1999, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1].

1 See MPEP § 710.02(e).

Accordingly, the above-identified application became abandoned on March 18, 2000. A Notice of Abandonment was mailed on June 29, 2000.

Almost six years later, an original petition was filed on June 12, 2006, along with, *inter alia*, the issue and petition fees. The original petition was dismissed via the mailing of a decision on January 19, 2007.

With this renewed petition, several declarations of facts have been submitted, along with a plurality of exhibits, and a three-month extension of time so as to make timely this response[2].

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[3]. All other

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2 It is noted that this renewed petition contains a certificate of mailing dated June 18 2007.

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Anthony Knight
Supervisor
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. 24

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NEW YORK, NY 10036

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OFFICE OF PETITIONS

In re Application of
Peter Seibel, et al.
Application No. 08/765,244
Filed: October 30, 1977
Attorney Docket No. 8484-018-999

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2003, to revive the above-identified application.

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 17, 2001, which set a shortened statutory period for reply of three (3) months. On July 17, 2001, applicant submitted a 3-month extension of time, along with a CPA (which was appropriately treated as an RCE). However, the constructive RCE was improper since it was not accompanied by a submission as required by 37 CFR 1.114. Accordingly, the application became abandoned on July 17, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The amendment filed March 20, 2003 is being construed as the submission required under 37 CFR 1.114 for the RCE filed on July 17, 2001.

The petition is **GRANTED**.

The Revocation and Power of Attorney filed March 14, 2003 has not been accepted since the assignee has failed to provide a proper certification under 37 CFR 373(b). If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center AU 1635, for further processing of the request for continued examination under 37 CFR 1.114 filed July 17, 2001.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

cc: DONNA M. FERBER
GREENLEE WINNER AND SULLIVAN PC
5370 MANHATTAN CIRCLE, SUITE 201
BOULDER, CO 80303

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Commissioner for Patents
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ARLINGTON, VA 22201-4714

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OFFICE OF PETITIONS

In re Application of :
Locht et al. :
Patent No. 6,841,358 :
Issued: January 11, 2005 : ON PETITION
Title of Invention: RECOMBINANT :
PROTEINS OF FILAMENTOUS :
HAEMAGGLUTININ OF BORDETELLA, :
PARTICULARLY BORDETELLA PERTUSSIS, :
METHOD FOR PRODUCING SAME, AND USES :
THEREOF FOR PRODUCING FOREIGN :
PROTEINS OF VACCINATING ACTIVE :
PRINCIPLES :

This is a decision on the Petition, filed January 13, 2005, under 37 CFR 1.183, for waiver of 37 CFR 3.81(a), to correct the name of the assignee in the above-identified patent. The petition is properly treated as a request under 37 CFR 3.81(b)[1].

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Petitions Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Locht et al. :
Patent No.: 6,841,358 B1 :
Application No. 08/765,287 :
International Filing Date: :
April 19, 1995 : DECISION
371 Date: September 12, 1997 : ON PETITION
Title of Invention: RECOMBINANT :
PROTEINS OF FILAMENTOUS :
HAEMAGGLUTININ OF BORDETELLA, :
PARTICULARLY BORDETELLA PERTUSSIS, :
METHOD FOR PRODUCING SAME, AND USES :
THEREOF FOR PRODUCING FOREIGN :
PROTEINS OF VACCINATING ACTIVE :
PRINCIPLES :

This is a decision in response to the Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed January 10, 2005. The delay in treating this petition is regretted.

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

Background:

Applicant filed a Request for Continued Examination (RCE) under 37 CFR 1.114 on March 26, 2001, in the above-identified application, which is the National Stage of an International Application filed on April 19, 1995. The RCE was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. See 37 CFR 1.114(e)(3).

A request for continued examination is not a type of new application filing. See Request for Continued Examination Practice and Changes to Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092, 50097 (August 16, 2000). The Office cannot convert an improper RCE to an application, such as a continuing application under 37 CFR 1.53(b) or (d). An improper RCE will not operate to toll the running of any time period set

in the previous Office action for reply to avoid abandonment of the application. See Manual for Patent Examining Procedure (MPEP) 706.07(h), page 700-70, subsection III.A., "Treatment of Improper RCE", (8th Ed. 2001).

In the instant case, a final Office action was mailed on September 26, 2000. Under 35 U.S.C. § 133, an applicant has six (6) months to reply to an Office action. Upon failure to prosecute the application within six months of notice of the Office action, the application shall be regarded as abandoned. This statutory requirement may not be waived by the Office. The filing of the improper RCE on March 26, 2001 did not toll the time period set forth in the Office action mailed on September 26, 2000. Thus, the application became **abandoned** on **March 27, 2001** for the failure to reply to the final Office action mailed on September 26, 2000.

The Office, however, mistakenly treated the improper RCE as a proper RCE and reopened the prosecution of the application. A Supplemental Response was filed July 13, 2001. A non-final Office action was mailed on December 18, 2001. A response to the non-final Office action was filed on April 18, 2002. A final Office action was mailed on August 13, 2002. A Notice of Appeal and extension of time request were filed on December 13, 2002. An Amendment was filed on March 13, 2003. An Advisory Action was mailed on April 22, 2003. A second improper RCE was filed on June 13, 2003. A non-final Office action was mailed on September 23, 2003, and a response to the non-final Office action was filed on January 23, 2004.

Petition to Revive

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicants become aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (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) a terminal disclaimer (and fee set forth in § 1.20(d)) is required pursuant to paragraph (d) of this section (for applications filed before June 8, 1995).

Applicants have satisfied Items (1) through (4). With regard to subsection (4), since the above-identified application is a utility application filed before June 8, 1995, 37 CFR 1.137(d)

requires a terminal disclaimer dedicating to the public a terminal part of any term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months lapsed from the date of abandonment to the date when this application issued as a patent. A terminal disclaimer fee of $130 is required and has been provided. The terminal disclaimer filed on January 10,2005, has been accepted.

All of the requirements of 37 CFR 1.137(b) have now been met. Accordingly, applicants' petition to revive under 37 CFR 1.137(b) is **granted**.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

#26

NOV 29 2000

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

DAVID L. FOX, PH.D.
FULBRIGHT & JAWORSKI, L.L.P.
1301 MCKINNEY, SUITE 5100
HOUSTON , TX 77010-3095

In re Application of :
Lars Abrahmsen et al :
Serial No.: 08/765,695 : PETITION DECISION
Filed: July 25, 1997 :
Attorney Docket No.: P01525US0 :

This is in response to applicants' petition under 37 CFR 1.144, filed April 4, 2000, which is a supplemental petition to a petition filed November 15, 1999, requesting withdrawal of an improper Lack of Unity requirement. The delay in acting on this petition is regretted.

A review of the file history shows that this application was filed under 35 U.S.C. 371 as the national Phase entry of PCT/SE95/00681 accepted on July 25, 1997. The examiner upon reviewing the application set forth a restriction requirement under 35 U.S.C. 121 and 372 in an Office action mailed October 16, 1998, as follows (claims 1-13 were canceled by preliminary amendment):

Group I - claims 14-35 drawn to a conjugate;
Group II - claims 36-51 drawn to an in vivo method of using the conjugate.

In reply to the restriction requirement applicants elected Group II, with traverse, arguing that the special technical feature identified by the examiner, the conjugate, is patentable over the prior art, contrary to the examiner's assertion. In the next Office action, mailed August 16, 1999, the examiner cited the explanation of Rule 13 of the PCT by referring to Annex B and quoting part (c), the first three paragraphs relating to claims in a combination/subcombination relationship, as here. The examiner maintained the requirement and made it Final. Applicants replied to the Office action on November 18, 1999, by filing a petiton with respect tot he restriction requirement and an amendment in which claims 14-35 were "provisionally" canceled pending decision on the petition. On February 11, 2000, the examiner issued a letter of non-responsiveness with regard to specific amendments and provided clarifying remarks with respect to the restriction requirement, inviting applicants to submit a modified or substitute petition. Applicants replied on April 4, 2000, with a corrected reply and this substitute petition. Subsequent to the petition being filed the examiner issued a new Office action requiring an election of species between species in Group II added by the last amendment.

DISCUSSION

The application, as filed and amended by the preliminary amendment, clearly contains claims directed to different, but related, inventions, a conjugate and a method of using the conjugate.

The inventions are in a combination/subcombination relationship. Based on the examination report issued by the Swedish Patent Office in the international phase, both the conjugate and method of using the conjugate lack novelty and inventive step with respect to specific prior art citations. Although this examination was done on claims 1-13 of the international application, newly submitted claims 14-51 correspond to claims 1-13. Insofar as the independent claims are concerned there is almost a word-for-word correspondence. (This is relatively easy to ascertain as the international application was filed in the English language.) Upon acting initially on the application the examiner made a determination of lack of unity based on the art of record (the examiner specifically referred to Buelow et al, cited on the ISA and discussed in the IPER) that the claims to the conjugate did not have unity with the claims of the method using the conjugate. In applicants' traversal of the restriction requirement after electing Group II, applicants acknowledged that the special technical feature linking Groups I and II is the conjugate, but disagreed that the requirement should be based on the conjugate not being patentable over the prior art of record. In rebuttal of applicants' remarks, the examiner quoted, with emphasis added, Annex B, part (c) which concludes by stating that where an independent claim does not avoid the prior art then the question of whether there is still an inventive link between the claims needs to be reconsidered and that where no link remains an objection to lack of unity may be raised. Further stated is the qualifier that in a combination/subcombination relationship between claims no question of lack of unity can be raised if the subcombination avoids the prior art, but that the converse is not true. The examiner then reiterated that the conjugate of Group I, although not elected for examination, does not avoid the prior art reference of Buelow et al. Applicants replied by "provisionally canceling" the claims of Group I and filing the first petition. The amendment was entered and claims 14-35 were canceled. Applicants should recognize that there is no "provisional" entry of an amendment based on subsequent prosecution other than a direction to an examiner giving permission to cancel non-elected claims by examiner's amendment when all claims being prosecuted are found allowable. That type of direction was not given here and the claims have been canceled. By canceling the claims applicants have, in effect, removed the basis for the restriction requirement. However, the petition is being decided as if the claims have not been canceled.

Applicants argue in the petition that the examiner based the original requirement on a misinterpretation of the Buelow et al reference and that the interpretation was changed in the letter of February 11, 2000. Applicants further argue that the teachings of Buelow et al do not anticipate the claims of Group I. Specifically, attention is focused on the claimed "modified ability to bind MHC class II antigens" caused by mutation of the conjugate. As noted from the directions given in Annex B, lack of unity is determined based only on the independent claims and if the independent claim does not avoid the prior art, then lack of unity exists. Both the Swedish Patent Office and the examiner in charge of this application found on examination that claim 14, or its earlier equivalents (claim 1), does not avoid the prior art. It is noteworthy that the Swedish Patent Office and the examiner both cited the same reference in showing the conjugate does not avoid the prior art. Although applicants appear to argue that the reference does not anticipate the prior art, Annex B does not require anticipation, merely that the claimed invention not avoid the prior art. This could be because of lack of novelty or lack of inventive step. The examiner's determination of lack of unity is not seen to be in error as the conjugate as set forth in claim 14 does not avoid the prior art.

DECISION

Applicants' petition is **DENIED** for the reasons set forth above.

Applicants are reminded that timely reply to the Office action mailed July 3, 2000, remains due, unless already filed. Upon receipt of the reply the application will be forwarded to the examiner for further consideration.

Any request for reconsideration of this decision or a renewed petition must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely and must be directed to the Assistant Commissioner of Patents. No extension of time will be permitted.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-5408.

Jasemine C. Chambers
Director, Technology Center 1600

MAR 2 6 2001

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

Paper #: 29

DAVID L. FOX, PH.D.
FULBRIGHT & JAWORSKI, L.L.P.
1301 MCKINNEY, SUITE 5100
HOUSTON , TX 77010-3095

In re Application of
Lars Abrahmsen et al
Serial No.: 08/765,695
Filed: July 25, 1997
Attorney Docket No.: P01525US0

: PETITION DECISION

This is in response to applicants' renewed petition under 37 CFR 1.144, filed December 18, 2000, seeking reversal of the previous petition decision, mailed November 29, 2000.

The file history is recited in the previous petition. Since the petition decision, a reply to the Office action mailed July 3, 2000, has been correlated with the file and this petition has been filed.

DISCUSSION

In the renewed petition applicants argue that they did argue that the examiner's holding that the conjugate as well as the method of using the conjugate do not avoid the prior art. This is technically correct. However, the restriction was based on the claims as originally presented prior to the first action on the merits. Based on the International Preliminary Examination Report, neither group of claims avoided the prior art. In view of this initial determination the examiner held Lack of Unity between the conjugate and method of using the conjugate. Note Annex B, part (c)(iii), which states that an initial holding of Unity made before a search of the prior art, and based on the assumption that the claims avoid the prior art, may be reconsidered on the basis of the results of the prior art search. It is clear that in the International application Unity of Invention was held prior to the prior art search. Following preliminary examination it was determined that all claims were taught by the prior art. On this basis Unity of Invention was reviewed and a Lack of Unity found. Although applicants argue that the claims now avoid the prior art, no such determination has been made by the examiner and the examiner's authority to make such determination will not be disturbed by this petition decision. The last Office action on the merits (August 16, 1999) does not indicate any claims as allowable over the applied prior art. Thus the holding of Lack of Unity was not improper. Also as applicants have canceled the claims to Group I there appears to be no basis for granting this petition.

DECISION

Applicants' renewed petition is **DENIED** for the reasons set forth above.

The application will be forwarded to the examiner for further action on the merits not inconsistent with this decision.

Any request for reconsideration of this decision or a renewed petition must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely and must be directed to the Assistant Commissioner of Patents. No extension of time will be permitted.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-5408.

John Doll (for)

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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In re Application of	:	
Abrahmsen et al.	:	
Application No. 08/765,695	:	DECISION ON
International Filing Date:	:	PETITION
June 7, 1995	:	
371 Date: July 25, 1997	:	
Title of Invention:	:	
CONJUGATE BETWEEN A MODIFIED	:	
SUPERANTIGEN AND A TARGET-SEEKING	:	
COMPOUND AND THE USE OF THE	:	
CONJUGATE	:	

This is a decision in response to: (1) the request for refund of the request for continued examination (RCE) fee under 37 CFR 1.17(e); (2) the Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b); and (3) the Petition under 37 CFR 1.183 for waiver of the terminal disclaimer under 37 CFR 1.137(c), filed January 9, 2006.

The request for refund of the RCE fee under 37 CFR 1.17(e) is **granted**.

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

The petition under 37 CFR 1.183 is **dismissed**.

Background

Applicants filed a Request for Continued Examination (RCE) under 37 CFR 1.114 on March 9, 2004 in the above-identified application, which is the National Stage of an international application filed on June 7, 1995. The RCE was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. See 37 CFR 1.114(e)(3).

A request for continued examination is not a type of new application filing. See Request for Continued Examination Practice and Changes to Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092, 50097 (August 16, 2000). The Office cannot convert an improper RCE to an application, such as a continuing application under 37 CFR 1.53(b) or (d). An improper RCE will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. See Manual for Patent Examining Procedure (MPEP) 706.07(h), page 700-70, subsection III.A., "Treatment of Improper RCE", (8th Ed. 2001).

In the instant case, a final Office action was mailed on September 8, 2003. Under 35 U.S.C. § 133, an applicant has six (6) months to reply to an Office action. Upon failure to prosecute the application within six months of the mailing of the Office action, the application shall be regarded as abandoned. This statutory requirement may not be waived by the Office. The filing of the improper RCE on March 9, 2004 did not toll the time period set forth in the Office action mailed on September 8, 2003. Thus, the application became **abandoned on March 9, 2004** for the failure to reply to the Office action mailed on September 8, 2003.

The Office mistakenly treated the improper RCE as a proper RCE and reopened the prosecution of the application. A non-final Office action was mailed May 26, 2004. An Amendment was filed September 2, 2004. An Ex Parte Quayle Action was mailed November 17, 2004. A reply to the Ex Parte Quayle Action, drawings, and an Amendment were filed January 27, 2005. A Notice of Allowance and a Notice of Allowability were mailed on April 29, 2005, and the Issue fee was received on July 29, 2005. The Office regrets the delay in notifying applicants of this error.

Decision

I. Request for Refund

The RCE filed on March 9, 2004 was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. 37 CFR 1.26(a) provides that "[t]he Director may refund any fee paid by mistake or in excess of that required." 37 CFR 1.26(b) provides that "[a]ny request for refund must be filed within **two years** from the date the fee was paid…."
The RCE fee under 37 CFR 1.17(e) was paid on March 9, 2004. On January 9, 2006, applicants requested a refund of the RCE fee within two years from the date the RCE fee was paid. Accordingly, the request for refund of the RCE fee is hereby **granted**.

The $770.00 RCE fee will be credited to attorney's deposit **account No. 06-2375.**

II. Petition to Revive Under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicants become aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (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) a terminal disclaimer (and fee set forth in § 1.20(d)) is required pursuant to paragraph (d) of this section (for applications filed before June 8, 1995).

Applicants have satisfied Items (1) through (3). Applicants, however, did not comply with the requirement under 37 CFR 1.137(d). Applicants submitted a terminal disclaimer that was conditioned on denial of the petition under 37 CFR 1.183. Such a conditional terminal disclaimer is improper.

All of the requirements of 37 CFR 1.137(b) have not been met. Accordingly, applicants' petition to revive under 37 CFR 1.137(b) is **dismissed**.

III. Petition for waiver of terminal disclaimer under 37 CFR 1.183

Applicants requests waiver of the terminal disclaimer required under 37 CFR 1.137(d), asserting that the abandonment of the application caused no actual delay in prosecution citing the example set forth in MPEP 711.03(c)II(G).

37 CFR 1.183 provides that "[I]n an extraordinary situation, where justice requires, any requirement of the regulations... which is not a requirement of the statutes may be suspended or waived by the Director."

The example that is provided in MPEP § 711.03(c)(II)(G) (cited by the applicants) is limited to situations where the patent term would not be affected if a patent is issued from the application. Here, if a terminal disclaimer is not required, however, applicants would gain a longer patent term from the filing of an improper RCE.

Section 532(a)(1) of the Uruguay Round Agreements Act (Pub. L. 103-465, 108 Stat. 4809 (1994)) amended 35 U.S.C. 154 to provide that for an application filed on or after June 8, 1995, the term of a patent (other than a design patent) begins on the date the patent issues and ends on the date that is twenty (20) years from the earliest filing date claimed under 35 U.S.C. 120, 121 or 365(c). See 35 U.S.C. 154 and MPEP § 2701. A patent granted on an international application filed before June 8, 1995, and which entered the national stage under 35 U.S.C. 371 before, on or after June 8, 1995, will have a term that is the greater of seventeen years from the date of grant or twenty years from the international filing date or any earlier filing date relied upon under 35 U.S.C. 120, 121 or 365(c). See MPEP § 2701.

If applicants filed a continuing application rather than an improper RCE on March 9, 2004, any patent resulting from the continuing application would have a patent term beginning on the date the patent issues and ending on the date that is twenty years from the filing date of the above-identified application, June 7, 1995. Such patent would expire on **June 8, 2015**.

Since applicants filed an improper RCE and the Office mistakenly reopened the prosecution of the above-identified application, any patent issued from the above-identified application would have a term that is the greater of seventeen years from the date of grant or twenty years from the international filing date. For example, if a patent issues from the above-identified application on June 8, 2006, the patent would expire on **June 8, 2023**. Therefore, applicants would gain **8 years** of patent term if a terminal disclaimer is not required. Accordingly, the Office will not waive the requirement of a terminal disclaimer.

For the reasons stated above, applicants' petition to waive the terminal disclaimer requirement under 37 CFR 1.183 is **dismissed**.

Any request for reconsideration of the petition to revive the above-identified application under 37 CFR 1.137(b) must be filed with a terminal disclaimer within **two (2) months from the mailing date of this decision. This time period may not be extended.**

Any petition under 37 CFR 1.137(b) should be addressed as follows:

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

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

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

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOUSTON, TX 77010-3095

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MAR 23 2006
Attorney AEW - Active Bio.
Docket No. P01525US0
Action Req'd Date Due

In re Application of :
Abrahmsen et al. :
Application No. 08/765,695 : DECISION ON
International Filing Date: : PETITION
June 7, 1995 :
371 Date: July 25, 1997 :
Title of Invention: :
CONJUGATE BETWEEN A MODIFIED :
SUPERANTIGEN AND A TARGET-SEEKING :
COMPOUND AND THE USE OF THE :
CONJUGATE :

This is a decision in response to: (1) the request for refund of the request for continued examination (RCE) fee under 37 CFR 1.17(e); (2) the Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b); and (3) the Petition under 37 CFR 1.183 for waiver of the terminal disclaimer under 37 CFR 1.137(c), filed January 9, 2006.

The request for refund of the RCE fee under 37 CFR 1.17(e) is **granted**.

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

The petition under 37 CFR 1.183 is **dismissed**.

Background

Applicants filed a Request for Continued Examination (RCE) under 37 CFR 1.114 on March 9, 2004 in the above-identified application, which is the National Stage of an international application filed on June 7, 1995. The RCE was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. See 37 CFR 1.114(e)(3).

A request for continued examination is not a type of new application filing. See Request for Continued Examination Practice and Changes to Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092, 50097 (August 16, 2000). The Office cannot convert an improper RCE to an application, such as a continuing application under 37 CFR 1.53(b) or (d). An improper RCE will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. See Manual for Patent Examining Procedure (MPEP) 706.07(h), page 700-70, subsection III.A., "Treatment of Improper RCE", (8th Ed. 2001).

In the instant case, a final Office action was mailed on September 8, 2003. Under 35 U.S.C. § 133, an applicant has six (6) months to reply to an Office action. Upon failure to prosecute the application within six months of the mailing of the Office action, the application shall be regarded as abandoned. This statutory requirement may not be waived by the Office. The filing of the improper RCE on March 9, 2004 did not toll the time period set forth in the Office action mailed on September 8, 2003. Thus, the application became **abandoned on March 9, 2004** for the failure to reply to the Office action mailed on September 8, 2003.

The Office mistakenly treated the improper RCE as a proper RCE and reopened the prosecution of the application. A non-final Office action was mailed May 26, 2004. An Amendment was filed September 2, 2004. An Ex Parte Quayle Action was mailed November 17, 2004. A reply to the Ex Parte Quayle Action, drawings, and an Amendment were filed January 27, 2005. A Notice of Allowance and a Notice of Allowability were mailed on April 29, 2005, and the Issue fee was received on July 29, 2005. The Office regrets the delay in notifying applicants of this error.

Decision

I. Request for Refund

The RCE filed on March 9, 2004 was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. 37 CFR 1.26(a) provides that "[t]he Director may refund any fee paid by mistake or in excess of that required." 37 CFR 1.26(b) provides that "[a]ny request for refund must be filed within **two years** from the date the fee was paid...."
The RCE fee under 37 CFR 1.17(e) was paid on March 9, 2004. On January 9, 2006, applicants requested a refund of the RCE fee within two years from the date the RCE fee was paid. Accordingly, the request for refund of the RCE fee is hereby **granted.**

The $770.00 RCE fee will be credited to attorney's deposit **account No. 06-2375.**

II. Petition to Revive Under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicants become aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (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) a terminal disclaimer (and fee set forth in § 1.20(d)) is required pursuant to paragraph (d) of this section (for applications filed before June 8, 1995).

Applicants have satisfied Items (1) through (3). Applicants, however, did not comply with the requirement under 37 CFR 1.137(d). Applicants submitted a terminal disclaimer that was conditioned on denial of the petition under 37 CFR 1.183. Such a conditional terminal disclaimer is improper.

All of the requirements of 37 CFR 1.137(b) have not been met. Accordingly, applicants' petition to revive under 37 CFR 1.137(b) is **dismissed**.

III. Petition for waiver of terminal disclaimer under 37 CFR 1.183

Applicants requests waiver of the terminal disclaimer required under 37 CFR 1.137(d), asserting that the abandonment of the application caused no actual delay in prosecution citing the example set forth in MPEP 711.03(c)II(G).

37 CFR 1.183 provides that "[I]n an extraordinary situation, where justice requires, any requirement of the regulations... which is not a requirement of the statutes may be suspended or waived by the Director."

The example that is provided in MPEP § 711.03(c)(II)(G) (cited by the applicants) is limited to situations where the patent term would not be affected if a patent is issued from the application. Here, if a terminal disclaimer is not required, however, applicants would gain a longer patent term from the filing of an improper RCE.

Section 532(a)(1) of the Uruguay Round Agreements Act (Pub. L. 103-465, 108 Stat. 4809 (1994)) amended 35 U.S.C. 154 to provide that for an application filed on or after June 8, 1995, the term of a patent (other than a design patent) begins on the date the patent issues and ends on the date that is twenty (20) years from the earliest filing date claimed under 35 U.S.C. 120, 121 or 365(c). See 35 U.S.C. 154 and MPEP § 2701. A patent granted on an international application filed before June 8, 1995, and which entered the national stage under 35 U.S.C. 371 before, on or after June 8, 1995, will have a term that is the greater of seventeen years from the date of grant or twenty years from the international filing date or any earlier filing date relied upon under 35 U.S.C. 120, 121 or 365(c). See MPEP § 2701.

If applicants filed a continuing application rather than an improper RCE on March 9, 2004, any patent resulting from the continuing application would have a patent term beginning on the date the patent issues and ending on the date that is twenty years from the filing date of the above-identified application, June 7, 1995. Such patent would expire on **June 8, 2015.**

Since applicants filed an improper RCE and the Office mistakenly reopened the prosecution of the above-identified application, any patent issued from the above-identified application would have a term that is the greater of seventeen years from the date of grant or twenty years from the international filing date. For example, if a patent issues from the above-identified application on June 8, 2006, the patent would expire on **June 8, 2023.** Therefore, applicants would gain **8 years** of patent term if a terminal disclaimer is not required. Accordingly, the Office will not waive the requirement of a terminal disclaimer.

For the reasons stated above, applicants' petition to waive the terminal disclaimer requirement under 37 CFR 1.183 is **dismissed**.

Any request for reconsideration of the petition to revive the above-identified application under 37 CFR 1.137(b) must be filed with a terminal disclaimer within **two (2) months from the mailing date of this decision. This time period may not be extended.**

Any petition under 37 CFR 1.137(b) should be addressed as follows:

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

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

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

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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In re Application of	:	
Abrahmsen et al.	:	
Application No. 08/765,695	:	DECISION ON
International Filing Date:	:	PETITION
June 7, 1995	:	
371 Date: July 25, 1997	:	
Title of Invention:	:	
CONJUGATE BETWEEN A MODIFIED	:	
SUPERANTIGEN AND A TARGET-SEEKING	:	
COMPOUND AND THE USE OF THE	:	
CONJUGATE	:	

This is a decision in response to the renewed Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed April 7, 2006.

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

Background:
A petition under 37 CFR 1.137(b) to revive an abandoned application was initially filed on January 9, 2006. The petition under 37 CFR 1.137(b) filed January 9, 2006, was dismissed in a decision mailed March 21, 2006, because the petition failed to comply with the requirement under 37 CFR 1.137(d) for a terminal disclaimer. The petition under 37 CFR 1.183 to waive the requirement for a terminal disclaimer filed on January 9, 2006, was also dismissed in the decision mailed March 21, 2006.

[Derek - I see no reason to repeat the following background information that was already contained in the previous decision, especially since some of the wording is not the same. If you want to repeat it, then use the same language.]

Discussion

Petition to Revive

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicants become aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (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) a terminal disclaimer (and fee set forth in § 1.20(d)) is required pursuant to paragraph (d) of this section (for applications filed before June 8, 1995).

Applicants have satisfied Items (1) through (4). With regard to subsection (4), since the above-identified application is a utility application filed before June 8, 1995, 37 CFR 1.137(d) requires a terminal disclaimer dedicating to the public a terminal part of any term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months lapsed from the date of abandonment to the date when this application issued as a patent. A terminal disclaimer fee of $65 is required and has been provided. The terminal disclaimer filed on April 7, 2006, has been accepted.

All of the requirements of 37 CFR 1.137(b) have now been met. Accordingly, applicants' petition to revive under 37 CFR 1.137(b) is **granted**.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5794627
Issue Date: August 18,1998
Application No. 08766651
Filed: December 16,1996
Attorney Docket No.

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

This is a decision on the electronic petition, filed August 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 August 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.

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)
5,794,627	1998-08-18	08/766,651	1996-12-16	

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	/craig e. bohn/	Date (YYYY-MM-DD)	2008-08-05
Name	Craig E. Bohn	Registration Number	52629

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.

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)
5973915	1999-10-26	08766702	1996-12-13	6836

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	/Adam A Bennett/	Date (YYYY-MM-DD)	2008-08-19
Name	Adam A. Bennett	Registration Number	57849

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.

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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. 5973915
Issue Date: October 26,1999
Application No. 08766702
Filed: December 13,1996
Attorney Docket No. 6836

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

This is a decision on the electronic petition, filed August 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 August 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.

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)
6022683	2000-02-08	08766975	1996-12-16	52219-US-NP

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	/Cozette M McAvoy/	Date (YYYY-MM-DD)	2009-03-04
Name	Cozette M McAvoy	Registration Number	60457

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. 6022683
Issue Date: February 8,2000
Application No. 08766975
Filed: December 16,1996
Attorney Docket No. 08523/006001

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

This is a decision on the electronic petition, filed March 4,2009 ,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 March 4,2009 . 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.

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 8/23/02.

Paper No.: 31.

TO : **Supervisor, Art Unit** ~~1623~~ 1654.

1654 Leary

SUBJECT : Certificate of Correction Request in Patent No.: 6,284,478

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

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.

Should Claims be granted and Cont.

Mary J Dzip

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 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:** (1) OK to enter item 1.

(2) Do not enter item 2 because no related error found.

(3) Do not enter item 3 because no related error found.

Brenda Brunlack — **Supervisor**

1654 — **Art Unit**

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)
5,923,498	1999-07-13	08/767,711	1996-12-17	501.48602X00

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	/Alan E. Schiavelli/	Date (YYYY-MM-DD)	2008-03-05
Name	Alan E. Schiavelli	Registration Number	32087

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. 5923498
Issue Date: July 13,1999
Application No. 08767711
Filed: December 17,1996
Attorney Docket No. SEA-2405

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

This is a decision on the electronic petition, filed March 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 March 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.

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)
5,761,002	1998-06-02	08/767,712	1996-12-17	501.48599X00

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 E. Schiavelli/	Date (YYYY-MM-DD)	2008-03-05
Name	Alan E. Schiavelli	Registration Number	32087

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.

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P.O. Box 1450
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In re Patent No. 5761002
Issue Date: June 2,1998
Application No. 08767712
Filed: December 17,1996
Attorney Docket No. SEA2404

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

This is a decision on the electronic petition, filed March 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 March 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.

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)
5,752,550	1998-05-19	08/768,137	1996-12-17	07-663

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	/A. Blair Hughes/	Date (YYYY-MM-DD)	2007-09-21
Name	A. Blair Hughes	Registration Number	32901

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
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In re Patent No. 5752550
Issue Date: May 19,1998
Application No. 08768137
Filed: December 17,1996
Attorney Docket No. SCBREV-164

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

This is a decision on the electronic petition, filed September 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 September 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of	:	
Yamazaki et al.	:	
Application No. 08/768,535	:	ON PETITION
Filed: December 18, 1996	:	
Attorney Docket No. 740756-1598	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee, publication fee and formal drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
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. 23

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
7th Floor
Los Angeles, CA 90025

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APR 0 4 2002

OFFICE OF PETITIONS

In re Application of :
Andrew T. Busey, et al. :
Application No. 08/768,606 : ON PETITION
Filed: December 18, 1996 :
Attorney Docket No. 4068.P002X :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 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 January 19, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 20, 2000.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 2700, Art Unit 2771 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks for
Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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SEP 27 2006

OFFICE OF PETITIONS

R WILLIAM GRAHAM
8281 MCEWEN ROAD
DAYTON OH 45458

Patentee: Carroll Dials
Patent No.: 5,725,259
Application No.:08/769,667
Filed: December 19, 1996
Issue Date : March 10, 1998
Title of Invention: Conduit Coupling

: DECISION ON PETITION

This is a decision on the petition filed September 5, 2006 under 37 CFR 1.378(c), to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued March 10, 1998. The last day of the grace period for paying the seven and one-half (7½) year maintenance fee was March 10, 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.

If petitioner desires to receive future correspondence regarding this patent, the appropriate change of correspondence address 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.

This file is being forwarded to the Files Repository.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: R. William Graham
22 S. St. Clair Street
Dayton, Ohio 45402

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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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria VA 22314

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MAY 06 2010

OFFICE OF PETITIONS

In re Application of	:	
Anton Schwetz, et al.	:	
Patent No. 5,803,935	:	NOTICE
Application No. 08/770,163	:	
Filed: December 19, 1996	:	
Attorney Docket No. E2-86001-PUS		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

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

Paper No. 15

DOCKET ADMINISTRATOR
LUCENT TECHNOLOGIES INC
600 MOUNTAIN AVENUE
PO BOX 636
MURRY HILL NJ 07974-0636

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JAN 31 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of:
Jin et al.
Application No: 08/381,378
Filed: January 31, 1995
Attorney Docket No. 100-21-8

DECISION
GRANTING
PETITION

In re Application of:
Jin et al
Application No. 08/771,369
Filed: December 16, 1996
Attorney Docket No. JIN-136-40-2

This is a decision on the petition filed January 8, 1999, requesting in application No. 08/381,378: (1) under 37 CFR 1.181 (no fee) withdrawal of the holding of abandonment, or in the alternative, (2) revival under 37 CFR 1.137(a), for purposes of obtaining continuity with FWC application No. 08/771,369.[1] The petition is also being treated as a renewed petition that application No. 08/771,369 be treated as a proper continuation application under former 37 CFR 1.62, and accorded a filing date of December 16, 1996.

The petition considered under 37 CFR 1.181 is **dismissed.**

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

The petition to accord a filing date of December 16, 1996 to application No. 08/771,369 is **granted.**

Application No. 08/381,378 became abandoned for failure to adequately reply to the Ex Parte Quayle Office action mailed March

[1] The file and petition were only recently brought to the attention of this office. Nevertheless, the delay is regretted.

5, 1996, which set a two (2) month shortened statutory period for response. While a reply was filed with a four month extension of time on August 26, 1996 (which extended the period for reply to September 5, 1996) the reply was not fully responsive and was refused entry as indicated in the communication of November 20, 1996, which set a non-extendable time limit period under 37 CFR 1.135(c) of one month within which to correct the informality in *this* application. While a FWC was filed on December 16, 1996, under the rules in effect at that time, such did not operate to cure the outstanding defect in *this* application, as noted in more detail below, and continuity was lost. As such, this application became abandoned at midnight on September 5, 1996, and not December 20, 1996. See MPEP 710.02(d) (6th Ed. Rev. 2, July 1996).

With respect to withdrawal of the holding of abandonment:

Petitioner asserts that the amendment of August 22 (*sic*, received August 26), 1996 was fully responsive and, as such, should have tolled the period for reply. Petitioner relies upon 37 CFR 1.312 and appropriate sections of the MPEP in support of his assertion that the amendment should have been entered at least in the pertinent part that addressed the outstanding informality. However, 37 CFR 1.312 and the practice relative thereto is, by the specific terms of the rule, only applicable where a Notice of Allowance has been mailed. While the Quayle action of March 5, 1996 did indicate the allowability of claim 1, such was clearly not a Notice of Allowance within the meaning of 35 USC 151 and 37 CFR 1.311 which call for the payment of the issue fee within three months to avoid abandonment. As such, petitioner's reliance on the practice under 37 CFR 1.312 is immaterial to the issue of abandonment.

Rather, as noted in MPEP 714.04, then and now, the practice for treating amendments, as here, which touch the merits (*e.g.* the addition of eight claims) subsequent to the mailing of an *Ex Parte Quayle* action is more properly considered under the practice after a final Office action. However, as noted in MPEP 714.13, then as now, entry of an amendment in a finally rejected case is not a matter of right, and further, amendments which add additional claims without canceling any finally treated number of claims should be refused entry. Rather, at best, an applicant could be notified that a supplemental amendment that can be entered *in toto* may be presented, in that in general an amendment after final office action will not be entered in part. Id. Petitioner is reminded, however, that proceedings relative to a previously filed amendment that is not responsive to the last action will not operate to save the case from abandonment. See 37 CFR 1.135(b).

Likewise, the filing of the FWC, under the rules then in effect, did not relieve applicant from taking timely action to complete the reply in *this* application, and thus, maintain its pendency.

The practice in effect at the time in question is best summarized in the "Notice of Final Rulemaking" 62 *Fed. Reg.* 53132, at 53156 (October 10, 1997):

> Section 1.135(c) is amended to provide that a new "time period" under 1.134 may be given if a reply to a non-final Office action is substantially complete but consideration of some matter or compliance with some requirement has been inadvertently omitted. This replaces the practice in which an applicant may be given an opportunity to supply the omission through the setting of a "time limit" of one month that is not extendable. Under 1.135(c) as adopted, a one-month shortened statutory time period will generally be set enabling an applicant to petition for extensions of time under 1.136(a). Where 35 U.S.C. 133 requires a period longer than one month (i.e., actions mailed in the month of February), a shortened statutory period of 30 days will be set.
>
> The setting of a time period for reply under 1.134 (rather than a time limit) results in the date of abandonment (when no further reply is filed) being the expiration of the new time period rather than the date of expiration of the period of reply set in the original Office action for which an incomplete reply was filed. Thus, the amendment to 1.135(c) permits the filing of a continuing application as an alternative to completing the reply, **whereas the previous practice required an applicant to complete the reply that was held to be incomplete or else the application was held to be abandoned (retroactively) as of the expiration of the original period for reply. Thus, applicants had to file an unnecessary reply to preserve pendency where their only intent was to file a continuing application. Section 1.135(c), as amended, sets forth a new period within which a continuing application can be filed, without the applicant having to supply the omission in the prior application to preserve pendency. In addition, applicant may file any other reply as may be appropriate under 1.111, regardless of whether a continuing application is filed** (emphasis added).

As such, the holding of abandonment in application No. 08/381,378 (in the decision of January 8, 1999 in application No. 08/771,369) is proper and will not be withdrawn.

With respect to the petition considered under 37 CFR 1.137(a):

Since application No. 08/381,378 is being revived for purposes of continuity only, and since continuity has been established by the decision reviving the application, the application is again abandoned in favor of the FWC application.

Since application Nos. 08/371,378 and 08/771,369 are copending via this decision, it follows that application No. 08/771,369 is properly filed within the meaning of 37 CFR 1.62, and as such, is accorded a filing date of December 16, 1996.

The CPA request filed on May 19, 1998 in then-abandoned application No. 08/381,378 was facially improper under the terms of 37 CFR 1.53(d), and as acceptance of the previously filed FWC in this decision on petition accomplishes the same result and no further fees are due, will not be considered further by the PTO as a moot issue. If such is not acceptable to applicant, then he should **promptly** notify this office.

The $110 fee for a petition under 37 CFR 1.137(a) has been charged to deposit account 12-2325.

Application No. 08/381,378 is being returned to Technology Center 2879 to await the FWC application.

Application No. 08/771,369 is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing as a proper continuing application filed under 37 CFR 1.62, of parent application No. 08/381,378, with a filing date of December 16, 1996. Subsequent appropriate processing of both applications will be performed in the Technology Center in due course.

Telephone inquiries relative to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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)
5829191	1998-11-03	08771954	1996-12-23	APNS-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	/C. Richard Eby/	Date (YYYY-MM-DD)	2006-11-16
Name	C. Richard Eby	Registration Number	25854

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. 5829191
Issue Date: November 3,1998
Application No. 08771954
Filed: December 23,1996
Attorney Docket No. APPLIED-3.0-

:

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

:

This is a decision on the electronic petition, filed November 16,2006 ,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 16,2006. 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.

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)
6039783	2000-03-21	08772057	1996-12-03	KSC-11884

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	/Randall M. Heald/	Date (YYYY-MM-DD)	2008-05-13
Name	Randall M. Heald	Registration Number	28561

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)).

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. 6039783
Issue Date: March 21,2000
Application No. 08772057
Filed: December 3,1996
Attorney Docket No. KSC-11884

: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 12

WIGMAN COHEN LEITNER & MYERS
THE FARRAGUT BLDG 10TH FLOOR
900 17TH STREET NW SUITE 1000
WASHINGTON, DC 20006

COPY MAILED

MAR 2 8 2002

OFFICE OF PETITIONS

In re Application of :
David R. Williams et al. :
Application No. 08/772,977 : NOTICE
Filed: December 23, 1996 :
Attorney Docket No. 000687-00016 :

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