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)
6297720	2001-10-02	08773555	1996-12-27	HALO 100-2

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	/Peter J. Su/	Date (YYYY-MM-DD)	2006-12-06
Name	Peter J. Su	Registration Number	43939

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. 6297720
Issue Date: October 2,2001
Application No. 08773555
Filed: December 27,1996
Attorney Docket No. HALO-003CIP

:

: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 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 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.

CERTIFICATE OF ELECTRONIC TRANSMISSION
I hereby certify that this correspondence is being electronically transmitted to United States Patent and Trademark Office on 10 January 2007.
/Kathryn Marley/
Kathryn Marley

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Peter Lu et al.

Application No.: 08/773,555
Filed: 27 December 1996

Patent No. 6,297,720
Issued: 02 October 2001

Confirmation No.: 7367

Title: **ELECTRONIC SURFACE MOUNT PACKAGE**

Group Art Unit: 2832

Examiner: Ahn T. Mai

CUSTOMER NO. 22470

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION ON PETITION GRANTING PETITION UNDER 37 C.F.R. §1.378(c)

Sir:

Applicants previously filed a *Petition Under 37 C.F.R. 1.378(c) to Accept the Unintentionally Delayed Payment of the 3.5 year Maintenance Fee* for the referenced patent. The Petition was granted.

However, applicants did not submit a copy of the *Statement Under 37 CFR 2.73(b)* with the petition. Therefore, applicants submit herewith a copy of the prior submission with the addition of the *Statement*.

DOCUMENTS SUBMITTED HEREWITH

Submitted herewith are the following documents:

1. *Statement Under 37 CFR 3.73(b);*

2. **Exhibit A:**

Copy of the *Decision Granting Petition Under 37 CFR 1.378(c);*

3. Exhibit B (Documents Filed with Petition on 06 December 2006)

1. Copy of *Acknowledgement Receipt* confirming receipt of the *Petition* and the fees for the petition and the maintenance fees due.
2. Copy of the *Petition Under 37 CFR 1.378(c);*
3. Copy of the *Electronic Acknowledgement Receipt* confirming receipt of the *Power of Attorney;*
4. Copy of the *Power of Attorney;*
5. Copy of the *Electronic Patent Application Fee Transmittal*.

CONCLUSION

In light of the above, Applicants respectfully request that the *Decision Granting Petition Under 37 CFR 1.378(c)* be upheld and that the above patent be reinstated.

Since the petition fees were paid at the time of the filing of the deficient petition, applicants respectfully submit that no fees are due with this submission. However, if the Patent Office determines that additional fees are due, the Commissioner is hereby authorized to charge any fees to our Deposit Account No. 50-0869 (HALO 100-2).

Respectfully submitted,

Dated: 10 January 2007

/Peter J. Su/
Peter J. Su, Reg. No. 43,939

HAYNES BEFFEL & WOLFELD LLP
P.O. Box 366
Half Moon Bay, CA 94019
(650) 712-0340 (telephone)
(650) 712-0263 (facsimile)

PTO/SB/96 (04-03)
Approved for use through 04/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: HALO Electronics, Inc.

Application No./Patent No.: 6,297,720 Filed/Issue Date: 02 October 2001

Entitled: Electronic Surface Mount Package

HALO Electronics, Inc., a Corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☑ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____ %
in the patent application/patent identified above by virtue of either:

A. [ ] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. [X] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below: Peter Lo, Jeffrey Heaton, James W.Heaton, Tsang Kai Sun, Peter Loh Hang Fao and

1. From: Robert Loke Heng Lam To: HALO ELECTRONICS, INC.
The document was recorded in the United States Patent and Trademark Office at
Reel 008510, Frame 0261, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

12/22/06
Date

650-962-5300
Telephone number

Jeffrey Heaton
Typed or printed name

Signature

VP of Engineering, HALO Electronics, Inc.
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. 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

EXHIBIT A

UNITED STATES 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. 6297720
Issue Date: October 2,2001
Application No. 08773555
Filed: December 27,1996
Attorney Docket No. HALO-003CIP

:
: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 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 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.

EXHIBIT B

Electronic Acknowledgement Receipt

EFS ID:	1357306
Application Number:	08773555
Patent Number:	6297720
Confirmation Number:	7367
Petition Issued Date:	December 6,2006
Title of Invention:	ELECTRONIC SURFACE MOUNT PACKAGE
First Named Inventor/Applicant Name:	PETER LU
Correspondence Address:	TRIAL & TECHNOLOGY GROUP - 545 MIDDLEFIELD ROAD SUITE 220 MENLO PARK CA 940250000 US - -
Filer:	Peter J. Su./Paula Hurley
Filer Authorized By:	Peter J. Su.
Attorney Docket Number:	HALO-003CIP
Receipt Date:	06-DEC-2006
Filing Date:	27-DEC-1996
Time Stamp:	19:18:46
Application Type:	Utility

Payment information:

Submitted with Payment	yes

Payment was successfully received in RAM	$2540
RAM confirmation Number	926
Deposit Account	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
1	Petition automatically processed and granted by EFS	efspetition20061206.pdf	981997	no	3
Warnings:					
Information:					
2	Fee Worksheet (PTO-875)	fee-info.pdf	8293	no	2
Warnings:					
Information:					
			Total Files Size (in bytes):	990290	

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6297720	2001-10-02	08773555	1996-12-27	HALO 100-2

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)
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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

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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 J. Su/	Date (YYYY-MM-DD)	2006-12-06
Name	Peter J. Su	Registration Number	43939

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

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

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

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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.

Electronic Acknowledgement Receipt

EFS ID:	1357286
Application Number:	08773555
International Application Number:	
Confirmation Number:	7367
Title of Invention:	ELECTRONIC SURFACE MOUNT PACKAGE
First Named Inventor/Applicant Name:	PETER LU
Correspondence Address:	TRIAL & TECHNOLOGY GROUP - 545 MIDDLEFIELD ROAD SUITE 220 MENLO PARK CA 940250000 US - -
Filer:	Peter J. Su./Paula Hurley
Filer Authorized By:	Peter J. Su.
Attorney Docket Number:	HALO-003CIP
Receipt Date:	06-DEC-2006
Filing Date:	27-DEC-1996
Time Stamp:	19:12:13
Application Type:	Utility

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
1	Power of Attorney	efspoa20061206.pdf	178206	no	1

Warnings:

Information:

Total Files Size (in bytes):	178206

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

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

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

PTO/SB/81 (01-96)
Approved for use through 12/31/2006. 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.

POWER OF ATTORNEY and CORRESPONDENCE ADDRESS INDICATION FORM

Application Number	08/773,555
Filing Date	27 December 1996
First Named Inventor	Peter Lu
Title	Electronic Surface Mount Package
Art Unit	2832
Examiner Name	Anh Mai
Attorney Docket Number	HALO 100-2

I hereby revoke all previous powers of attorney given in the above-identified application.

I hereby appoint:

☑ Practitioners associated with the Customer Number: 22470

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☑ The address associated with the above-mentioned Customer Number:

OR

☐ The address associated with Customer Number:

OR

☐ Firm or Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Email			

I am the:

☐ Applicant/Inventor.

☑ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature		Date	12-05-06
Name	James Heaton	Telephone	650-962-5300
Title and Company	CEO, Halo Electronics, Inc.		

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. 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 3 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.

Electronic Patent Application Fee Transmittal

Application Number:	08773555
Filing Date:	27-Dec-1996
Title of Invention:	ELECTRONIC SURFACE MOUNT PACKAGE
First Named Inventor/Applicant Name:	PETER LU
Filer:	Peter J. Su./Paula Hurley
Attorney Docket Number:	HALO-003CIP

Filed as Large Entity

Utility Filing Fees

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Basic Filing:				
Maintenance Fee Due at 3.5 years	1551	1	900	900
Surcharge after Expiration-Unintentional	1558	1	1640	1640
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD($)
Extension-of-Time:				
Miscellaneous:				
			Total in USD ($)	**2540**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

MAILED

DEC - 6 2000

Technology Center 2600

FITZPATRICK, CELLA,
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3801

In re Application of:
Toshiya Kanazawa
Serial Number: 08/774,012
Filed: December 26, 1996
For: IMAGE FILING APPARATUS

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed September 18, 2000, for the above-identified application.

The application was abandoned for failure to respond in a timely and effective manner to the final Office action mailed February 25, 2000. A Notice of Abandonment was mailed on August 29, 2000.

Petitioner asserts that a proper response in the form of a Notice of Appeal was in fact timely filed. In support of the petition, petitioner has submitted a copy of a postcard which is date stamped August 29, 2000, by the Patent and Trademark Office acknowledging receipt of a Notice of Appeal and a petition for three month extension of time. A copy of the Notice of Appeal, bearing the certificate of mailing, and including the request for three months extension of time is also submitted. It is noted that the fees for the extension of time and filing of the Notice of appeal were charged to the credit of the instant application.

The original response filed was not matched with the file at the time the Notice of Abandonment was mailed. The original response has recently been located. The delay in locating the response is regretted. Accordingly, there is no abandonment in fact.

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

The petition is **GRANTED**.

Receipt of the Request for Reconsideration of Final Rejection filed October 12, 2000 is also

acknowledged. The application file will be forwarded to the Group technical support staff for entry of the request for reconsideration and from there the application file will be forwarded to the examiner for further consideration.

The time period for filing an appeal brief after a Notice of Appeal is filed is two months from the Official receipt date of the Notice of Appeal which is August 29, 2000 in the instant case. See 37 C.F.R. § 1.192(a) and M.P.E.P. § 1205. Therefore, in the present case the due date for the Appeal Brief would have been October 29, 2000. However, the time period for filing an appeal brief can be extended for five months under 37 C.F.R. 1.136(a).

Joseph Rolla, 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

In re Patent No. 6015347
Issue Date: January 18,2000
Application No. 08774193
Filed: December 26,1996
Attorney Docket No. 32991-003

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,015,347	2000-01-18	08/774,193	1996-12-26	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Denis Floge/	Date (YYYY-MM-DD)	2008-08-21
Name	Denis Perry Floge		

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.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5930219	1999-07-27	08774673	1996-12-26	0630-0637P

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2007-12-26
Name	Kendal M. Sheets	Registration Number	47077

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

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

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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. 5930219
Issue Date: July 27,1999
Application No. 08774673
Filed: December 26,1996
Attorney Docket No. 0630-0637P

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,047,055	2000-04-04	08/774,964	1996-12-26	T2000-001049-USC

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	/Sean Murray/	Date (YYYY-MM-DD)	2008-07-02
Name	Sean Murray	Registration Number	59782

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. 6047055
Issue Date: April 4,2000
Application No. 08774964
Filed: December 26,1996
Attorney Docket No. SWA-3.5.003/

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

This is a decision on the electronic petition, filed July 2,2008 ,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 July 2,2008 . 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

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JUL 19 2010

OFFICE OF PETITIONS

MR DAVID CATANZARO
626 PENN AVENUE
MAYFIELD PA 18433

In re Patent No. 6,026,532	:	
Issue Date: February 22, 2000	:	
Application No. 08/777,032	:	DECISION ON PETITION
Filed: December 30, 1996	:	
Title: Toothbrush Assembly	:	
	:	

This is a decision on the petition under 37 C.F.R. §1.378(b), filed January 22, 2010.

The petition under 37 C.F.R. § 1.378(b) is **GRANTED**.

Background

The above-identified patent issued on February 20, 2000. Accordingly, the first maintenance fee could have been timely paid during the period from February 20, 2003 through August 20, 2003, or with a late payment surcharge during the period from August 21, 2003 through February 20, 2004. No maintenance fee having been received, the patent expired on February 21, 2004.

Relevant Statutes and Regulations

35 U.S.C. § 41(c)(1) states that:

> The Commissioner may accept the delayed payment of any maintenance fee required ... after the six month grace period if the delay is shown to the satisfaction of the Commissioner to have been unavoidable.

37 C.F.R. § 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 §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.

§ 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 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. 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 (N.D. Ind. 1987).

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the

Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Commissioner that the delay in payment of a maintenance fee is unavoidable. See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991), cert. denied, 502 U.S. 1075 (1992); Ray v. Lehman, 55 F. 3d 606, 608 - 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

Analysis and Conclusion:

On petition, patentee asserts financial hardship as the grounds of unavoidable delay. In support thereof, petitioner has itemized his income and expenses for the years 2003 - 2009. In addition, petitioner has included copies of his federal and state tax returns for the years 2003 - 2009. Accordingly, based on the evidence presented, it is concluded that patentee has satisfied his burden of establishing that the entire period of delay was unavoidable.

The maintenance fee in this case is accepted and the above identified patent is hereby reinstated as of the mail date of this decision.

The file is being forwarded to Files Repository.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

cc: David Catanzaro
286 Upper Powderly Street
Carbondale, PA 18407

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)
5821535	1998-10-13	08777112	1996-12-30	

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

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. 5821535
Issue Date: October 13,1998
Application No. 08777112
Filed: December 30,1996
Attorney Docket No. 11197

:
: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

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MAR 1 7 2006
PATENT & TRADEMARK OFFICE

Paper No. 40

COWAN LIEBOWITZ & LATMAN P.C
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK, NY 10017

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JUL 2 8 2005
OFFICE OF PETITIONS

In re Application of
Kenji Suzuki, et al.
Application No. 08/777,424
Filed: December 30, 1996
Attorney Docket No. B422-124

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before October 19, 2004. The issue fee accompanies the present petition. Therefore, the petition is found to comply with the requirements of 37 CFF 1.137(b).

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed December 9, 2004.

Petitioner is advised that the issue fee paid in the above-identified application cannot be refunded. However, if the above-identified application is again allowed, petitioner may request that the issue fee paid on May 6, 2005, be applied towards the issue fee required by the new Notice of Allowance.

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

The application file is being forwarded to Technology Center AU 2176 for further processing of the request for continued examination under 37 CFR 1.114 filed December 9, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
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

Paper No. 20

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APR 03 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

DANIELE KENNY
8 BRAEMER ROAD
EAST SEATAUKET, NY 11733

In re Application of
Daniele Kenny
Application No. 08/777,452
Filed: December 30, 1996
Attorney Docket No. DK1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file 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 June 24, 1999, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on August 25, 1999. See MPEP 1215.04.

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

The application file is being forwarded to Technology Center 3700.

Irvin Dingle
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
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Alexandria, VA 22313-1450
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OCT 26 2005

Paper No. 37

Bernard S. Hoffman
460 Old Town Road, Suite 7F
Port Jefferson Station
NEW YORK 11776

In re Application of
Daniele J. Kenny
Application No.: 08/777,452
Filed: December 30th, 1996
Attorney Docket No.: DK1
For: NEPOLASTIC CELL DESTRUCTION DEVICE UTILIZING LOW FREQUENCY SOUND WAVES TO DISRUPT OR DISPLACE CELLULAR MATERIALS

ON PETITION

This is a decision on the request, filed October 03, 2005, to recuse Examiner Ruth Smith as the Patent Office Examiner in the above-identified application on the grounds that Examiner Smith has failed to handle the application in a timely manner. The request is being handled as a petition under 37CFR 1.181(a)(3).

The petition to recuse Examiner Ruth Smith as the Patent Office Examiner in the above-identified application is **DISMISSED**.

The above-identified application was filed *pro se* on December 30th 1996. The petition states that "open issues dating back to the year 2000 remain unaddressed by the Patent Office", including a petition filed on July 28, 2000 as well as a lost appeal brief filed on March 27, 2000. The Board received the application on appeal January 22, 2004, without the brief, four years after the appeal had been filed. Furthermore, Examiner Smith was notified, by the Board, of this missing brief and this open petition in a remand mailed February 19, 2004 and took no action to rectify this situation.

A thorough review of the prosecution history of this application fails to reveal any mishandling of the application by the examiner. In each instance in which the applicant filed a response and the application was then forwarded to the examiner for action, Examiner Smith responded within the required time period (MPEP 708, 714.13). Furthermore, the record shows Examiner Smith timely responded to both the Appeal Brief, filed April 03, 2000, as well as the Reply Brief, filed July 28, 2000. The subsequent loss of the Appeal Brief, the application's delay in reaching the Board, and the delay in returning the application to the examiner from the Board, occurred outside of Examiner Smith's jurisdiction.

Frederick Schmidt
Director, Technology Center 3700

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P.O. Box 1450
Alexandria, VA 22313-1450
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BERNARD S. HOFFMAN
460 OLD TOWN ROAD, STE 7F
PORT JEFFERSON STATION, NY 11776

MAILED NOV 14 2005

In re Application of
KENNY, DANIELE
Application No.: 08/777,452
Filed: December 30, 1996

DECISION ON PETITION

This is a decision on petitioner's request under 37 CFR 1.181 filed July 28, 2000 and supplemented on June 30, 2005 to review the examiner's holding of new matter in the specification.

The petition is dismissed as moot.

MPEP 608.04(c) states:
Where the new matter is confined to amendments to the specification, review of the examiner's requirement for cancelation is by way of petition. But where the alleged new matter is introduced into or affects the claims, thus necessitating their rejection on this ground, the question becomes an appealable one, and should not be considered on petition even though that new matter has been introduced into the specification also. 37 CFR 1.181 and 37 CFR 1.191 afford the explanation of this seemingly inconsistent practice as affecting new matter in the specification.

A review of the application reveals that claims 1-4, 6, 7, 12-15, 31, 33,and 34 have been rejected under 35 U.S.C. 112, first paragraph for the same reasons as the objection to the specification. Since the new matter is introduced into the claims, the matter is an appealable issue rather than a petitionable matter as noted in MPEP 608.04(c).

Summary: Petition dismissed as moot.

Any questions regarding this petition should be directed to Special Program Examiner, Linda Sholl at 571-272-4391.

Frederick Schmidt, Director
Technology Center 3700

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/777,452	12/30/1996	DANIELE KENNY	DK1	3274

7590 01/06/2006

BERNARD S. HOFFMAN
460 OLD TOWN ROAD, STE 7F
PORT JEFFERSON STATION, NY 11776

EXAMINER
SMITH, RUTH S

ART UNIT	PAPER NUMBER
3737	

DATE MAILED: 01/06/2006

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

88

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERNARD S. HOFFMAN
460 OLD TOWN ROAD, STE 7F
PORT JEFFERSON STATION, NY 11776

In re Application of	:	
KENNY, DANIELE	:	**DECISION REGARDING**
Application No.: 08/777,452	:	**REMAND**
Filed: December 30, 1996	:	

This application is before Technology Center 3700 for review of the requirements of the remand of the Board of Patent Appeals and Interferences (BPAI) mailed on February 19, 2004.

The BPAI ordered that the application be remanded back to the examiner for 1) consideration of the petition filed July 28, 2000; 2) physical entry of the Appeal Brief filed March 27, 2000; and 3) for such further action as may be appropriate.

In regard to item 1, a petition decision was mailed on November 14, 2005.

In regard to item 2, the Appeal Brief filed on March 27, 2000 could not be located after a reasonable search. Since the paper was not located, applicant is requested under 37 CFR 1.251 to provide the missing paper. The Notice under 37 CFR 1.251 is attached hereto. As set forth in the Notice and herein, applicant is given a period of TWO (2) Months from the mailing date of this decision to respond. Extensions of time are permitted under the provisions of 37 CFR 1.136(a).

In order to continue the advancement of prosecution in this application, applicant is also required to do one of the following within the period for reply set forth in this decision:

1) Should applicant not possess a record of the correspondence and submits the attached Notice to such, the application will be reverted back to the status before the Appeal Brief was filed, which is, Notice of Appeal filed with an Appeal Brief due. In this situation, applicant is required to submit a new appeal brief in order to allow advancement of prosecution of the application;

2) Should applicant submit a copy of the Appeal Brief and desire the prosecution of the application to continue with only this Appeal Brief, applicant must state on the record his intention not to file another brief; or

3) Should applicant submit a copy of the Appeal Brief and desire to file a new Appeal Brief in view of the November 14, 2005 petition decision, he may do so within the time period set forth in this decision.

Failure to complete one of these requirements in the time period set forth in this decision will result in the application going abandoned.

In regard to item 3, other appropriate action will be determined once applicant has submitted a reply to this decision.

In summary, applicant's application will go abandoned unless applicant 1) replies to the Notice under 1.251 and 2) completes one of the three requirements set forth above.

Brian Casler, Supervisory Patent Examiner
Technology Center 3700
Art Unit 3737

Attachment: Notice under 37 CFR 1.251- Pending Application

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

NOTICE UNDER 37 CFR 1.251 - Pending Application

The following **paper(s)** pertaining to the above-identified application cannot be located after a reasonable search:

The appeal brief filed March 27, 2000 (Application 08/777,452)

Therefore, the Office is initiating the reconstruction of such paper(s) pursuant to the provisions of 3 7 CFR 1.251.

Applicant is given a period of **TWO (2) MONTHS** from the mailing date of this notice within which to provide a copy of the paper(s) listed above and a statement that the copy of such paper(s) is a complete and accurate copy of applicant's record of such paper(s).

If applicant does not possess any record of the correspondence between the Office and the applicant for the application (or any copy of the paper(s) listed above), applicant must reply to this notice by providing a statement that applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

Failure to reply to this notice in a timely manner will result in abandonment of the above-identified application. The two-month period for reply to this notice may be extended (up to a maximum of six months) under the provisions of 37 CFR 1.136(a). However, failure to reply within this two-month period will result in a reduction of any patent term adjustment. See 37 CFR 1.704(b).

Direct the reply to this notice to:

U.S. Patent and Trademark Office
Mail Stop: **Duplicates**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Direct questions concerning this notice to:

Linda Sholl, Special Program Examiner, TC3700

571-272-4391

PTO Doc Code: R251.NTC (Rev. 03/05)

Approved for use through 07/31/2006.OMB 0651-0031
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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In re Application of: _____

Application No.: _____

Filing Date: _____

Title: _____

_____

Direct to:

U.S. Patent and Trademark Office
Mail Stop: **Duplicates**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

NOTICE UNDER 37 CFR 1.251 – Pending Application

Statement (check the appropriate box):

☐The copy submitted with this reply is a complete and accurate copy of applicant's record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and applicant for the above-identified application that is not among applicant's records.

☐The copy of the paper(s) listed in the notice under 37 CFR 1.251 is/are a complete and accurate copy of applicant's record of such paper(s).

☐The papers produced by applicant are applicant's complete record of all of the correspondence between the Office and the applicant for the above-identified application (except for U.S. patent documents), and applicant is not aware of any correspondence between the Office and the applicant for the above-identified application that is not among applicant's records.

☐Applicant does not possess any record of the correspondence between the Office and the applicant for the above-identified application.

_____ _____
Date *Signature*

_____
Typed or printed name

A Copy of this notice should be returned with the reply.

Burden Hour Statement: This collection of information is required by 37 CFR 1.251. The information is used by the public to reply to a request for copies of correspondence between the applicant and the USPTO in order to reconstruct an application file. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 60 minutes to complete. This 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, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450.
DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.**

PTO Doc Code: R251.RES (Rev. 03/05)

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/777,452	12/30/1996	DANIELE KENNY	DK1	3274

7590 02/27/2007
BERNARD S. HOFFMAN
460 OLD TOWN ROAD, STE 7F
PORT JEFFERSON STATION, NY 11776

EXAMINER
SMITH, RUTH S

ART UNIT	PAPER NUMBER
3737	

MAIL DATE	DELIVERY MODE
~~02/27/2007~~ 4/4/07	PAPER

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

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
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Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER

20070403

DATE MAILED:

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

Commissioner for Patents

Brian L Casler
SPE
Art Unit: 3737

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Alexandria, VA 22313-1450
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BERNARD S. HOFFMAN
460 OLD TOWN ROAD, STE 7F
PORT JEFFERSON STATION NY 11776

In re Application of:
KENNY, DANIELE
Serial No. 08/777,452
Filed: Dec. 30, 1996
Docket: DK-1
Title: **NEPOLASTIC CELL DESTRUCTION DEVICE UTILIZING LOW FREQUENCY SOUND WAVES TO DISRUPT OR DISPLACE CELLULAR MATE**

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed Nov. 2, 2006 under 37 CFR 1.181 requesting Examiner's Answer be mailed. In the petition, petitioner requests the examiner to issue an Examiner's Answer after many months of delay. The petition is being considered under 37 CFR 1.181 and no fee is required.

The petition is **Dismissed as moot**.

In finding petitioner's points of argument persuasive, the requested relief is granted. The examiner was instructed to mail an Examiner's Answer as requested in the petition. In view of the Examiner's Answer mailed Feb. 28, 2007, decision on the petition is moot and is dismissed. The application will be forwarded to the Board for consideration of the Appeal.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Brian Casler, Supervisory Patent Examiner
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Bernard S. Hoffman
10 Colgate Street
Port Jefferson Station NY 11776

MAILED

JUL 23 2010

OFFICE OF PETITIONS

In re Application of :
Kenny :
Application No. 08/777,452 :
Filed: December 30, 1996 :
U.S. Patent No. 7,416,535 :
Issue Date: August 26, 2008 :
For: Nepolastic Cell Destruction Device and :
Method Utilizing Low Frequency Sound :
Waves to Disrupt or Displace Cellular :
Materials :

DECISION ON PETITION

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Daniele J. Kenny's Request for Patent Term Extension under MPEP § 2720," received on March 30, 2009. The petition is being treated under 37 CFR 1.181 and 37 CFR 1.701, as a petition for patent term extension.

The petition is granted in part.

Petitioner asserts the application is entitled to patent term extension under 35 U.S.C. 154. Petitioner asserts that the application was filed on December 30, 1996 and did not issue until August 26, 2009, thus the application has suffered for 11.6667 years. Petitioner asserts that the Notice of Appeal of was on February 22, 2000, the Brief was filed on March 27, 2000, that the application was remanded to the Examiner by the Board on February 19, 2004 due to the Brief missing from the file and that the Board reversed the Examiner on March 7, 2008, so that the patent term extension should be at least 8.0356 years.

On December 30, 1996, the above identified application was filed.

On June 24, 1999, a Notice of Appeal was filed.

On August 24, 1999, the application was abandoned for failure to file an Appeal Brief within the statutory period and on January 27, 2000, a Notice of Abandonment was mailed by the Office.

On February 22, 2000, a petition to revive the abandoned application under 37 CFR 1.137(b) was received by the Office.

On April 3, 2000, a Decision granting the petition was mailed by the Office.

On March 27, 2000, an Appeal Brief was filed by Applicant.

On June 28, 2000, an Examiner's Answer was mailed by the Office.

On July 28, 2000, a Reply Brief was filed by Applicant.

On February 19, 2004, Board of Patent Appeals and Interferences mailed an Order returning the application to the Examiner, for entry of the Appeal Brief filed March 27, 2000, which was missing from the file and consideration of a petition filed July 28, 2000.

On January 6, 2006, a Notice under 37 CFR 1.251 was mailed by the Office requesting a copy of the Appeal Brief filed on March 27, 2000.

On July 6, 2006, Applicant responded that he did not possess a copy of the old Appeal Brief and he filed a new Appeal Brief.

On October 26, 2006, an Examiner Answer was mailed by the Office.

On March 7, 2008, a Decision by the BPAI reversing the decision of the Examiner was mailed by the Office.

On May 1, 2008, a Notice of Allowance and Issue Fee(s) Due notice, which included a determination that the patent term extension was 611 days, was mailed by the Office.

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.

The above-identified application was filed on December 30, 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.

A Notice of Appeal was filed in the above-identified application on June 24, 1999. On March 7, 2008, the Board of Patent Appeals and Interferences (BPAI) reversed an adverse determination of patentability by 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 reversal of an adverse determination by the Examiner, 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 24, 1999, the date that the Notice of Appeal was filed and ending on March 7, 2008, the date of the decision by the BPAI, which is a final decision in favor of the applicant. Three years after the earliest effective filing date of the application is December 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 2991 days, the period from December 30, 1999 to March 7, 2008, including the beginning and end dates.

In accordance with 37 CFR 1.701(d)(2), the period of extension is reduced by the time that the applicant did not act with due diligence. The application was abandoned on August 24, 1999, for failure to file an Appeal Brief within the statutory period. On February 22, 2000, a petition to revive the abandoned application under 37 CFR 1.137(b) was received by the Office and the petition was granted on April 3, 2000. The period of reduction is 123 days, the period from December 30, 1999 (the period of abandonment that is also three years after the filing date of the application to April 30, 2000 (the date of revival, which is within 4 months of the date of a grantable petition), including the beginning and end dates.

As a result, the period of extension is 2868 days. In accordance with 37 CFR 1.701(b), the term of a patent under this section may be extended up to a maximum of five years. The patent term extension under 35 U.S.C. 154 and 37 CFR 1.701 is five (5) years.

The Office proposes to issue a certificate of correction in order to rectify the error regarding the patent term extension information. See 35 U.S.C. 254 and 37 CFR 1.322. Applicant is given THIRTY (30) DAYS to respond to this letter. If no objection is received from applicant, the Office will issue a certificate of correction indicating that the patent term is extended for five (5) years under 35 U.S.C. 154(b). This time limit is NOT extendible under 37 CFR 1.136.

The Office's electronic record (Patent Application and Location Monitoring system (PALM)) will be adjusted to show that five (5) years of patent term extension has been accrued to the above-identified application.

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 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)
5893572	1999-04-13	08/777,617	1996-12-31	

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	/James Parks/	Date (YYYY-MM-DD)	2009-03-30
Name	James Parks		

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. 5893572
Issue Date: April 13,1999
Application No. 08777617
Filed: December 31,1996
Attorney Docket No. 149-02

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

This is a decision on the electronic petition, filed March 30,2009 ,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 30,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

JUN 16 2002

The Procter & Gamble Company
Patent Division
Ivorydale Technical Center – Box 474
5299 Spring Grove Avenue
Cincinnati OH 45217

Paper No. 22

In re Application of Donald C. Roe et al Serial No. : 08/777,849 Filed : December 31, 1996 For : Absorbent Article Having Drawstring Members	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed September 24, 2001, to review the holding of abandonment mailed July 27, 2001, for failure to respond to the Office action mailed December 26, 2000. The basis for the request is that applicant did not receive the communication mailed December 26, 2000. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed September 24, 2001, includes all the above elements. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action mailed December 26, 2000.

Summary: Holding of Abandonment Withdrawn.

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

ak/6/5/02

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 32

JEFFREY R. MOORE
PATENT DIVISION/PROCTER & GAMBLE COMPANY
11450 GROOMS ROAD
5299 SPRING GROVE AVENUE
CINCINNATI, OH 45242

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SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of Roe et al. Application No. 08/777,849 Filed: December 31, 1996 Attorney Docket No. 6468	: : : : :	DECISION ON PETITION

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. § 1.137(b)," filed April 8, 2003.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed July 5, 2002. An amendment was filed August 19, 2002; however, the amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed February 4, 2003). No timely and proper reply having been filed and no extension of time obtained, the application became abandoned effective October 6, 2002[1]. A Notice of Abandonment was mailed on April 8, 2003.

On instant petition, petitioner filed the required reply in the form of a request for continuing examination under § 1.114 (RCE), with a previously filed amendment noted as the submission, and payment of the RCE fee. Petitioner has met all other requirements for a grantable petition under § 1.137(b).

The application file is being forwarded to Technology Center 3761 for consideration of the RCE and amendment by the examiner.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

---

[1] A request for continuing examination under § 1.114 was filed on March 18, 2003, but was properly not considered as the application was already abandoned. (It also did not include the required submission).

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

Mail Date: 04/23/2010

Applicant	: DONALD C. ROE	: DECISION ON REQUEST FOR
Patent Number	: 7575573	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 08/777,849	: OF WYETH
Filed	: 12/31/1996	:
		:

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.

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/778,124	01/02/1997	KUO-WEI H. CHEN	CHEN3-5-40-3	4241

7590 08/15/2003

DOCKET ADMINISTRATOR
ROOM 3C512
LUCENT TECHNOLOGIES INC
600 MOUNTAIN AVENUE PO BOX 636
MURRAY HILL, NJ 079740636

EXAMINER
OEN, WILLIAM L

ART UNIT	PAPER NUMBER
2855	

DATE MAILED: 08/15/2003

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
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Paper No. 39

In re Application of CHEN ET AL.
Application No.: 08/778,124
Filed: January 02, 1997
For: Positioning Determining System Using Transmitted Position Information

DECISION ON PETITION

This is a decision on the petition filed January 17, 2003, requesting that the Restriction Requirement be restructured so that the examination of Group I (claims 1-29) and Group II (claims 30-53) be combined.

The petition is **granted**.

Petitioner asserts that the examination of Group I with elected Group II be combined since the examination of both groups would not impose a serious burden on the examiner.

Petitioner's arguments are persuasive. Accordingly, the Office action dated April 4, 2003 is hereby vacated.

The application filed is being returned to the examiner for prompt appropriate action. No further response is required from the applicant at this time.

Edward Lefkowitz
Supervisory Patent Examiner
Art Unit 2855
Technology Center 2800

DOCKET ADMINISTRATOR
ROOM 3C512
LUCENT TECHNOLOGIES INC
600 MOUNTAIN AVENUE PO BOX 636
MURRAY HILL, NJ 7974-0636

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Appl. No.: 08/778,124
Filed: January 02, 1997

DECISION DENYING PETITION
37 CFR 1.181

This is a decision on the petition filed 5-7-04 to transfer the examination of the application to another examiner under 37 CFR 1.181.

After speaking with Applicant's representative, Brian Brown, it has been decided that Primary Examiner Oen, who has been involved with the application for the duration of prosecution, will prepare a non-final office action addressing all of the claims. The office action will be reviewed and initialed by me. Therefore, the application will not be transferred to another examiner.

The petition is denied.

Edward Lefkowitz
Supervisory Patent Examiner
Art Unit 2855
Technology Center 2855

DOCKET ADMINISTRATOR
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LUCENT TECHNOLOGIES INC
600 MOUNTAIN AVENUE PO BOX 636
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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper 12

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OFFICE OF PETITIONS

CHRISTIE PARKER & HALE
P O BOX 7068
PASADENA CA 91109-7068

In re Patent No. 5,780,222
Issued: July 14, 1998
Application of
Peddada, *et al.*
Application No. 08/778,610
Filed: January 6, 1997
Attorney Docket No.: 30043/JWE/A9

DECISION
ON PETITION

This is a decision on the petition filed via FAX on April 19, 2002 (previously submitted via mail on July 30, 2001) under §1.324,[1] to correct, pursuant to the showing of the inventors previously named and the inventor seeking to be named, the listing of inventors in the instant issued patent to add the following inventor:

Peter Schmid

on the front page of the above-identified patent.

The petition 37 C.F.R. §1.324 is **GRANTED**.

The file is being returned to files repository.

---

[1] The regulations at 37 C.F.R. §1.322 provide:
§ 1.324 Correction of inventorship in patent, pursuant to 35 U.S.C. 256.
(a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his or her part, the Commissioner may, on petition, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A petition to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a
motion under § 1.634.
(b) Any petition pursuant to paragraph (a) of this section must be accompanied by:
(1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;
(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;
(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and
(4) The fee set forth in § 1.20(b).
(c) For correction of inventorship in an application see §§ 1.48 and 1.497, and in an interference see §1.634.
[47 Fed. Reg. 41281, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2713, Jan. 20, 1983, effective Feb. 27, 1983; 49 Fed. Reg. 48416, Dec. 12, 1984, 50 Fed. Reg. 23123, May 31, 1985, effective Feb. 11, 1985; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; heading and para. (b)(1) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Sept. 8, 2000; para. (c) added, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Sept. 8, 2000]

Telephone inquiries concerning this decision may be directed to the undersigned at the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

OLE K. NILSSEN
200 N HARRISON STREET
SUITE 103
ALGONQUIN, IL 60102

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,100,643	:
Issue Date: August 8, 2000	:
Application No. 08/779,495	:
Filed: January 8, 1997	:
Patentee: Ole K. Nilssen	:

This is in response to the paper filed January 27, 2006 under 37 CFR 1.27(g) (2) requesting that status as a Small Entity be removed.

In accordance with the January 27, 2006 request, status as a Small Entity has been removed.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application file is being referred to Files Repository.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5767095	1998-06-16	08779783	1997-01-07	49000.1001

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

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

Privacy Act Statement

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

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

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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. 5767095
Issue Date: June 16,1998
Application No. 08779783
Filed: January 7,1997
Attorney Docket No. 87018.003

:

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

:

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

The petition is GRANTED.

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,864,553	1999-01-26	08/780,468	1997-01-08	JNP-0549

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul A. Harrity/	Date (YYYY-MM-DD)	2007-04-19
Name	Paul A. Harrity	Registration Number	39574

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. 5864553
Issue Date: January 26,1999
Application No. 08780468
Filed: January 8,1997
Attorney Docket No. JNP-0549

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

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

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

WILLIAM A SKINNER
ADVANCED ELASTOMER SYSTEMS
388 SOUTH MAIN STREET
AKRON OH 44311-1059

COPY MAILED

MAY 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Ellul et al. :
Application No. 08/780,507 :
Filed: January 8, 1997 :
Attorney Docket No. 9427C :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2005, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper reply to a non-final Office Action mailed October 14, 2003. The non-final Office Action set a three (3) month shortened statutory period for reply. A reply was received on February 6, 2004. A Notice of Non-Compliant Amendment 37 CFR 1.121 was mailed on March 4, 2004 setting a one month extendable time period for reply. A reply to the Notice of Non-Compliance was submitted on September 15, 2004 (certificate of mailing March 16, 2004). A Failure to Acceptably Respond to a Notice of Non Compliant Amendment 37 CFR 1.121 was mailed on December 9, 2004. Accordingly, this application became abandoned on September 5, 2004. A Notice of Abandonment was mailed December 14, 2004.

This petition is hereby **GRANTED**.

Deposit account 01-0275 will be charged the petition to revive fee in the amount of $1500.00.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 1700 for further processing.

Telephone inquiries concerning this matter 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
www.uspto.gov

In re Patent No. 6123354
Issue Date: September 26,2000
Application No. 08780721
Filed: January 8,1997
Attorney Docket No. B0932/7038JM

:
: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.

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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)
6123354	2000-09-26	08780721	1997-01-08	B0932.70038US00

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SURCHARGE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jason M. Honeyman/	Date (YYYY-MM-DD)	2008-10-29
Name	Jason M. Honeyman	Registration Number	31624

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Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,916,750	1999-06-29	08/780,725	1997-01-08	

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Signature	/Mary Jo Bertani/	Date (YYYY-MM-DD)	2008-02-23
Name	Mary Jo Bertani	Registration Number	42321

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. 5916750
Issue Date: June 29,1999
Application No. 08780725
Filed: January 8,1997
Attorney Docket No. P00162US0

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

This is a decision on the electronic petition, filed February 22,2008 ,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 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 8/781696

Paper No.: _____

DATE : 2/15/06

TO SPE OF : ART UNIT 2178

SUBJECT : Request for Certificate of Correction on Patent No.: 6944819B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 113

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

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

Comments:

CESAR PAULA
PRIMARY EXAMINER
for SPE

2178
Art Unit

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OCT 13 2004

JOHN Q. MCQUILLAN
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TUCKAHOE, NEW YORK 10707.

In re Application of
SAMUEL ROSE, M.D. (Deceased June 3, 2001) Decision on Petition
Serial No: 08/782,590
Filed: 13 January 1997
Attorney Docket No: 43/24

This letter is in response to the Request to have Final Rejection of March 26, 2004 Withdrawn as Being Premature. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed on January 13, 1997 with original claims 1-87. The examiner restricted claims 1-87 into 15 groups, in the restriction requirement mailed on 23 May 1997.

In the response filed on 29 September 1997, applicants elected group XIV, claims 69-83 with traverse.

A non-final office action was mailed on 25 February 1998 in which claims 1-87 were pending, claims 1-68, 84-87 were withdrawn from consideration and claims were 69-83 rejected.

Final office action was mailed on 25 November 1998, in which claims 69-83 were rejected and claims 1-68, 84-87 were withdrawn.

The application was abandoned on 17 August 1999, because the response filed on 27 May 1999 did not result in allowance of the application.

Applicants have filed a petition to revive the application, which accompanied the request for Continued Prosecution Application on 16 November 1999. The petition was granted on 06 January 2000.

A non-final office action was mailed on 25 May 2000, in which claims 1-87 were pending, claims 69-83 were rejected and claims 1-68, 84-87 were withdrawn from consideration.

A final office action was mailed on 13 February 2001, in which claims 1-87 were pending, claims 69-83 were rejected and claims 1-68, 84-87 were withdrawn from consideration.

A <u>request for Continued Prosecution Application was filed on 13 August 2001</u>.

A non-final rejection was mailed on 05 July 2002, in which claims 69-87 were pending, claims 69-83 were rejected, and claims 84-87 were withdrawn from consideration. NOTE the pending claims 1-68 were not mentioned in the office action.

The amendment filed on 10 January 2003, canceled claims 82 (see page 10 of the response), and claim 83 (see page 5 of the amended claims) and amended claims 69, 71-72, and 75-80.

A final office action was mailed on 01 May 2003, in which claims 69-82 were pending and 69-82 were rejected.

A request for Continued Prosecution Application was filed on 30 October 2003. Along with the request for CPA two sets of claims were filed. One set was marked as Preliminary Amendment for Continued Prosecution Application (set A), which has claims 1-83. Another set of claims (set B) was filed on 30 October 2003, which has claims 1-87. And the claims 69-83 are different in both the sets of claims.

A First action Final rejection was mailed on 26 March 2004, in which claims 1-82, 88 were indicated as pending, claims 1-68 were withdrawn and claims 69-82, 88 were rejected.

In the office action (mailed on 26 March 2004) in page 2 the examiner indicated that claim 83 is renumbered as claim 88 using Rule 37 CFR 1.126. The office action did not mention the two sets of claims. It is not clear which set of claims (set A or set B) was examined by the examiner.

RELEVANT RULES

37 CFR 1.126. Numbering of claims.

The original numbering of the claims must be preserved throughout the prosecution. When claims are canceled the remaining claims must not be renumbered. When claims are added, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented (whether entered or not). When the application is ready for allowance, the examiner, if necessary, will renumber the claims consecutively in the order in which they appear or in such order as may have been requested by applicant. In a single claim case, the claim is not numbered.

¶ 6.17 Numbering of Claims, 37 CFR 1.126

The numbering of claims is not accordance with 37 CFR 1.126, which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

608.01(s) Restoration of Canceled Matter

Canceled text in the specification can be reinstated only by a subsequent amendment presenting the previously canceled matter as a new insertion. 37 CFR 1.121(b)(4). A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number. 37 CFR 1.121(c)(2). See MPEP § 714.24.

A CPA may be based on a prior CPA so long as the prior CPA is complete under 37 CFR 1.51(b) and was filed before May 29, 2000, or is a design application. There is no other limit to the number of CPAs that may be filed in a chain of continuing applications.

However, only one CPA may be pending at one time based on the same prior nonprovisional application.

RULE § 1.53 Application number, filing date, and completion of application.
(d) Application filing requirements - Continued prosecution (nonprovisional) application

(1) A continuation or divisional application (but not a continuation-in-part) of a prior nonprovisional application may be filed as a continued prosecution application under this paragraph, provided that:
(i) The prior nonprovisional application is either:
(A) A utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, and is complete as defined by § 1.51(b);

DISCUSSION

The petition and file history have been considered carefully. Upon careful consideration of the file history several issues were noted in this application, which merit discussion before consideration of the Request for Reconsideration.

a) Which set of claims presented on 30 October 2003 are pending in this application;

b) Which claims are pending or number of claims pending;

c) Numbering of the claims;

d) Whether Finality of the office action mailed on 26 March 2004 is proper or not;

e) Whether CPA filing on 30 October 2003 is in acceptable condition or not.

a). The preliminary amendment filed on 30 October 2003 along with the Request for Continued Prosecution Application has claims 1-83 (Set A). This set of claims includes the canceled claims 82 and 83 (see the amendment and response filed on 10 January 2003). Further in this set (set A) of claims, claims 69-83 are different from the second set (Set B) of claims.

The second set (set B) of claims 1-87 filed on 30 October 2003, includes claims 84-87, which were not present in the first set (set A) of claims or were originally present in the application. The content of claims 69-83 of set B is different from the set A of claims.

Thus, it is not clear which set of claims are applicants had intended to be considered as pending claims.

b). The amendment and papers filed on 30 October 2003, has two sets of claims. The first set (Set A) has claims 1-83 and the second set (Set B) has claims 1-87. And further set A claims 69-83 are different from the second set B claims 69-83.

In the office action mailed on 26 March 2004, the examiner has not addressed the two sets of claims and renumbered claim 83 under with 37 CFR 1.126. However, it is not clear which claim set was examined and from which set (A or B) claim 83 is renumbered.

In view of the confusing two sets of claims, number of claims and different claimed subject, the claims pending cannot be determined.

c). Numbering of the claims are not accordance with 37 CFR 1.126. Canceled claims 82 and 83 (response filed on 10 January 2003) are added as claims 82 and 83, which is improper. Applicants may add the claims by numbering consecutively beginning with the number next following the highest numbered claim previously presented. In this application it should continue after claim 87.

In view of the above issues the response filed on 30 October 2003 is considered as non-responsive. The office cannot determine which set of claims applicants intend to have examined.

Applicants may wish to review the file to verify the claims that they wish to have examined (the set of claims, properly numbered, and the number of claims).

d). In the office action mailed on 26 March 2004 the examiner considered the filing of the request for continued examination (30 October 2003) as RCE, using form paragraph 7.42.04 in the office action mailed on 26 March 2004. The examiner has examined claims 69-82 and 88 and made the office action final using form paragraph 7.41.03, which is specific for CPA filing. The examiner has considered claim 88 as same as the deleted claim 83 and renumbered the claim according to 37 CFR 1.126.

The office action has not addressed the two sets of claims filed on 30 October 2003. The office action was not clear on which claim (claim 83 from set A or set B) is considered as claim 88. It is not clear whether the examiner has renumbered claim 87 of set B or claim 83 of set B or claim 83 of set A as claim 88. Moreover, because the filing of request for continued examination filed on 30 October 2003 is considered as RCE filing under 37 CFR 1.114, the use of form paragraph 7.41.03 to make the office action final is an error.

It is noted that in the PTOL-326 (Office Action Summary) the boxes 4 and 6 were not checked by the examiner, however examiner has filled the boxes stating which claims were considered as pending and withdrawn (box 4) and filled the box stating which claims were considered as rejected.

Thus for the reasons discussed above the final rejection of claims 69-82 and 88, mailed on 26 March 2004 is improper and the office action has been vacated.

e) Applicants have requested Continued Prosecution Application on 30 October 2003, on a prior CPA filed on 13 August 2001. According to 37 CFR 1.53 (d), CPA filing requirements CPA can not be filed on a prior CPA which was filed after 29 May 2000. In this application the previous CPA was filed on 13 August 2001, which was after the 29 May 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), **the Office will automatically treat the improper CPA as an RCE of the prior application** (identified in the request for CPA) under 37 CFR 1.114.

The filing of request for Continued Prosecution Application on 30 October 2003 has now been treated as RCE under 37 CFR 1.114.

Turning now to the request filed on 21 April 2004 that applicant is entitled to a new requirement of restriction based on the new set of claims filed on 30 October 2003:

35 U.S.C. 132(b) and 37 CFR 1.114 provide continued examination of an application (and not examination of a continuing application), the applicant cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., **applicant cannot switch inventions**) (see 37 CFR 1.145).

Thus, applicants cannot switch the inventions. The original restriction carries over and only claims directed to the same invention examined in the previous office action will be examined in the RCE filing under 37 CFR. 1.114. Applicants arguments regarding the requirement of new restriction are moot in view of filing of RCE under 37 CFR. 1.114.

DECISION

Applicant's Request for withdrawal of office action mailed on 26 March 2003 is **DISMISSED** for the reasons set forth above.

The final office action mailed on 26 March 2004 has been vacated in view of the office errors in processing improper CPA filing and non-responsive amendment filed on 30 October 2003.

If an applicant files a request for a CPA of an application to which CPA practice no longer applies and the CPA satisfies the requirements of 37 CFR 1.114 to be a proper RCE, but the applicant does not want the request for a CPA to be treated as a RCE under 37 CFR 1.114 (e.g., the CPA is a divisional CPA), the applicant may file a petition under 37 CFR 1.53(e) requesting that the improper CPA be converted to an application under 37 CFR 1.53(b).

Applicants have **ONE MONTH** from the mailing date of this petition decision to file a proper amendment with the correct set of claims to be examined in this application, and/or to file a petition under 37 CFR 1.53(e) requesting that the improper CPA be converted to an application under 37 CFR 1.53(b).

Any request for consideration must be filed within two (2) months from the mailing date of this decision.

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.

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In re Application of
SAMUEL ROSE, M.D. (Deceased June 3, 2001) Decision on Petition
Serial No: 08/782,590
Filed: 13 January 1997
Attorney Docket No: 43/24

This letter is in response to the Request to have Final Rejection of March 26, 2004 Withdrawn as Being Premature. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed on January 13, 1997 with original claims 1-87. The examiner restricted claims 1-87 into 15 groups, in the restriction requirement mailed on 23 May 1997.

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A request for Continued Prosecution Application was filed on 13 August 2001.

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The amendment filed on 10 January 2003, canceled claims 82 (see page 10 of the response), and claim 83 (see page 5 of the amended claims) and amended claims 69, 71-72, and 75-80.

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RELEVANT RULES

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¶ 6.17 Numbering of Claims, 37 CFR 1.126

The numbering of claims is not accordance with 37 CFR 1.126, which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

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Canceled text in the specification can be reinstated only by a subsequent amendment presenting the previously canceled matter as a new insertion. 37 CFR 1.121(b)(4). A claim canceled by amendment (deleted in its entirety) may be reinstated only by a subsequent amendment presenting the claim as a new claim with a new claim number. 37 CFR 1.121(c)(2). See MPEP § 714.24.

A CPA may be based on a prior CPA so long as the prior CPA is complete under 37 CFR 1.51(b) and was filed before May 29, 2000, or is a design application. There is no other limit to the number of CPAs that may be filed in a chain of continuing applications.

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However, only one CPA may be pending at one time based on the same prior nonprovisional application.

RULE § 1.53 Application number, filing date, and completion of application.
(d) Application filing requirements - Continued prosecution (nonprovisional) application

(1) A continuation or divisional application (but not a continuation-in-part) of a prior nonprovisional application may be filed as a continued prosecution application under this paragraph, provided that:
(i) The prior nonprovisional application is either:
(A) A utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, and is complete as defined by § 1.51(b);

DISCUSSION

The petition and file history have been considered carefully. Upon careful consideration of the file history several issues were noted in this application, which merit discussion before consideration of the Request for Reconsideration.

a) Which set of claims presented on 30 October 2003 are pending in this application;

b) Which claims are pending or number of claims pending;

c) Numbering of the claims;

d) Whether Finality of the office action mailed on 26 March 2004 is proper or not;

e) Whether CPA filing on 30 October 2003 is in acceptable condition or not.

a). The preliminary amendment filed on 30 October 2003 along with the Request for Continued Prosecution Application has claims 1-83 (Set A). This set of claims includes the canceled claims 82 and 83 (see the amendment and response filed on 10 January 2003). Further in this set (set A) of claims, claims 69-83 are different from the second set (Set B) of claims.

The second set (set B) of claims 1-87 filed on 30 October 2003, includes claims 84-87, which were not present in the first set (set A) of claims or were originally present in the application. The content of claims 69-83 of set B is different from the set A of claims.

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In view of the confusing two sets of claims, number of claims and different claimed subject, the claims pending cannot be determined.

c). Numbering of the claims are not accordance with 37 CFR 1.126. Canceled claims 82 and 83 (response filed on 10 January 2003) are added as claims 82 and 83, which is improper. Applicants may add the claims by numbering consecutively beginning with the number next following the highest numbered claim previously presented. In this application it should continue after claim 87.

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The office action has not addressed the two sets of claims filed on 30 October 2003. The office action was not clear on which claim (claim 83 from set A or set B) is considered as claim 88. It is not clear whether the examiner has renumbered claim 87 of set B or claim 83 of set B or claim 83 of set A as claim 88. Moreover, because the filing of request for continued examination filed on 30 October 2003 is considered as RCE filing under 37 CFR 1.114, the use of form paragraph 7.41.03 to make the office action final is an error.

It is noted that in the PTOL-326 (Office Action Summary) the boxes 4 and 6 were not checked by the examiner, however examiner has filled the boxes stating which claims were considered as pending and withdrawn (box 4) and filled the box stating which claims were considered as rejected.

Thus for the reasons discussed above the final rejection of claims 69-82 and 88, mailed on 26 March 2004 is improper and the office action has been vacated.

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e) Applicants have requested Continued Prosecution Application on 30 October 2003, on a prior CPA filed on 13 August 2001. According to 37 CFR 1.53 (d), CPA filing requirements CPA can not be filed on a prior CPA which was filed after 29 May 2000. In this application the previous CPA was filed on 13 August 2001, which was after the 29 May 2000.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), **the Office will automatically treat the improper CPA as an RCE of the prior application** (identified in the request for CPA) under 37 CFR 1.114.

The filing of request for Continued Prosecution Application on 30 October 2003 has now been treated as RCE under 37 CFR 1.114.

Turning now to the request filed on 21 April 2004 that applicant is entitled to a new requirement of restriction based on the new set of claims filed on 30 October 2003:

35 U.S.C. 132(b) and 37 CFR 1.114 provide continued examination of an application (and not examination of a continuing application), the applicant cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., **applicant cannot switch inventions**) (see 37 CFR 1.145).

Thus, applicants cannot switch the inventions. The original restriction carries over and only claims directed to the same invention examined in the previous office action will be examined in the RCE filing under 37 CFR. 1.114. Applicants arguments regarding the requirement of new restriction are moot in view of filing of RCE under 37 CFR. 1.114.

DECISION

Applicant's Request for withdrawal of office action mailed on 26 March 2003 is **DISMISSED** for the reasons set forth above.

The final office action mailed on 26 March 2004 has been vacated in view of the office errors in processing improper CPA filing and non-responsive amendment filed on 30 October 2003.

If an applicant files a request for a CPA of an application to which CPA practice no longer applies and the CPA satisfies the requirements of 37 CFR 1.114 to be a proper RCE, but the applicant does not want the request for a CPA to be treated as a RCE under 37 CFR 1.114 (e.g., the CPA is a divisional CPA), the applicant may file a petition under 37 CFR 1.53(e) requesting that the improper CPA be converted to an application under 37 CFR 1.53(b).

Applicants have **ONE MONTH** from the mailing date of this petition decision to file a proper amendment with the correct set of claims to be examined in this application, and/or to file a petition under 37 CFR 1.53(e) requesting that the improper CPA be converted to an application under 37 CFR 1.53(b).

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Any request for consideration must be filed within two (2) months from the mailing date of this decision.

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOFFMAN WARNICK & D'ALESSANDRO, LLC
3 E-COMM SQUARE
ALBANY, NY 12207

COPY MAILED

JAN 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Paul Delabastita et al	:	
Application No. 08/782,866	:	ON PETITION
Filed: January 13, 1997	:	
Attorney Docket No. GV-2166	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, 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 12, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on March 13, 2004. See MPEP 1215.04.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 1756 for processing of the request for continued examination under 37 CFR 1.114.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5929893	1999-07-27	08783015	1997-01-14	2901-091-2

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2009-01-20
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 5929893
Issue Date: July 27,1999
Application No. 08783015
Filed: January 14,1997
Attorney Docket No. 2901-091-2

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

This is a decision on the electronic petition, filed January 20,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5706629
Issue Date: January 13,1998
Application No. 08783353
Filed: January 6,1997
Attorney Docket No. 8402.260

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

This is a decision on the electronic petition, filed January 21,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 21,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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)
5706629	1998-01-13	08783353	1997-01-06	8402.260

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
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LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
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NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
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SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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STATEMENT
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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	/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.**

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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).

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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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#42
8-1-03

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WASHINGTON, D.C. 202
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Paper No. 42

Kattin Muchin Zavis
525 West Monroe Street
Suite 1600
Chicago, Illinois 60661-3693

In re Application of: Christopher Gladwin et al.	)	
Application No.: 08/783,708	)	**DECISION ON PETITION**
Filed: January 15, 1997	)	**UNDER 37 C.F.R. § 1.181 TO**
For: MULTIPLE WIRELESS REMOTE	)	**INVOKE SUPERVISORY**
INTERFACES TO A SINGLE SERVER	)	**AUTHORITY**
	)	

This is a decision on the petition filed June 4, 2003 under 37 CFR § 1.181 to invoke supervisory authority. The petition is supplemented by a further submission dated July 29, 2003. Petitioner requests that the Examiner be directed to enter a 320 page appendix.

In support of the petition, Petitioner provides a copy of a post card with a PTO stamp indicating receipt at the USPTO of the Appendix on the filing date of the application (January 15, 1997). Petitioner has represented that Applicant will submit the source code Appendix on CD in accordance with the new rules.

M.P.E.P. § 503 states:

> 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.

Petitioner has established that the Appendix was filed with the application and therefore constitutes part of the Application as filed. Accordingly, no issue of new matter is raised in correcting the record to include said Appendix.

The petition is **GRANTED**. The Examiner is directed to approve entry of the Appendix.

Applicant is reminded to file the Appendix in accordance with the new rules and with appropriate amendments to the specification to reflect the existence of the Appendix.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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KATTEN MUCHIN ZAVIS
525 W. MONROE STREET
SUITE 1600
CHICAGO, IL 60661-3693

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MAY 24 2004
OFFICE OF PETITIONS

In re Application of
S. Christopher Gladwin et al
Application No. 08/783,708
Filed: January 15, 1997
Attorney Docket No. 58389

ON PETITION

This is a decision on the petition, filed May 20, 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 March 8, 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 Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 2157 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY: SUITE 700
WASHINGTON, DC 20007-5201

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of Gladwin et al. :
Application No. 08/783,708 :
Filing Date: January 15, 1997 :
Attorney Docket No. 211465-00484 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed March 26, 2008, to revive the above-identified application. The is also a decision on the petition under 37 CFR 1.181, filed April 22, 2008, requesting the Office withdraw the holding of abandonment.

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

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

The Office mailed a non-final Office action on June 21, 2007. The Office action set a shortened statutory period for reply of 3 months. Neither a reply nor a request for an extension of time was filed. As a result, a Notice of Abandonment was mailed April 10, 2008.

Petitioner contends a reply was not filed because the non-final Office action was never received.

A review of the record indicates petitioner has supplied sufficient evidence to establish non-receipt of the Office action. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot.

A petition fee of $510 for the petition under 37 CFR 1.137(a) was charged to petitioner's deposit account on March 27, 2008. The $510 has been credited back to petitioner's deposit account.

Technology Center Art Unit 2142 will be informed of the instant decision and the examiner will review the amendment filed March 26, 2008, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5796676
Issue Date: August 18,1998
Application No. 08783931
Filed: January 17,1997
Attorney Docket No. 14737.479

:

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

:

This is a decision on the electronic petition, filed December 18,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 18,2006. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5796676	1998-08-18	08783931	1997-01-17	IO-1030US

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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○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

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

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

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

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○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul S. Madan/	Date (YYYY-MM-DD)	2006-12-18
Name	Paul S. Madan	Registration Number	33011

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.

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)
5,827,340	1998-10-27	08/784,075	1997-01-17	

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	/jrr/	Date (YYYY-MM-DD)	2008-09-07
Name	John R. Ross, III	Registration Number	43060

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. 5827340
Issue Date: October 27,1998
Application No. 08784075
Filed: January 17,1997
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed September 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 7,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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. 23

LYON & LYON, LLP
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

COPY MAILED

JUL 0 3 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Walter W. Mosher	:	
Application No. 08/784,180	:	
Filed: January 15, 1997	:	
Attorney Docket No. 266/126	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 14, 2002, 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)."

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 September 27, 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-above-identified application became abandoned on November 28, 2001. See MPEP 1214.06. A Notice of Abandonment was mailed on January 2, 2002.

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

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

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

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may 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.

A reply has not been filed with the instant petition. As such, the petition must be dismissed.

Petitioner asserts the decision by the Board of Patent Appeals and Interferences was never received at the correspondence address of record. 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 Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

A copy of the decision by the Board of Patent Appeals and Interferences is attached for petitioner's convenience.

Please note, the power of attorney and change of correspondence address, filed February 1, 2002, has been accepted and made of record.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachments: Board of Patent Appeals and Interferences, Decision, September 27, 2001.

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

SCOTT W. KELLEY
KELLY BAUERSFELD LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

COPY MAILED

NOV 01 2002

OFFICE OF PETITIONS

In re Application of :
Walter W. Mosher :
Application No. 08/784,180 : ON PETITION
Filed: January 15, 1997 :
Attorney Docket No. PREDYN-42823 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 25, 2002, to revive the above-identified application. A request for two (2) month extension of time accompanied the instant petition.

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 September 27, 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-above-identified application became abandoned on November 28, 2001. See MPEP 1214.06. A Notice of Abandonment was mailed on January 2, 2002.

The file is being forwarded to Technology Center 3600 for review of the CPA and Preliminary Amendment filed October 25, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5917459	1999-06-29	08784534	1997-01-17	2901-092-2

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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2009-01-16
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 5917459
Issue Date: June 29,1999
Application No. 08784534
Filed: January 17,1997
Attorney Docket No. 2901-092-2

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

This is a decision on the electronic petition, filed January 16,2009 ,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 16,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 28 2010

OFFICE OF PETITIONS

ROBERT P. LENART
ECKERT SEAMANS SHERIN & MELLOTT, LLC
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

In re Patent No. 6,272,467 :
Issue Date: August 7, 2001 :
Application No. 08/784,713 : ON PETITION
Filed: January 16, 1997 :
Attorney Docket No. 28403500007 :

This is a decision in response to a petition, filed November 12, 2009, 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**.

This patent expired on August 7, 2009 for failure to pay the second 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 is timely filed under the provisions of 37 CFR 1.378(c).

The petition is not signed by a registered patent attorney or agent of record. However, in accordance with 37 CFR 1.34, the signature of David M. Quinlan appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. 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 the petitioner herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

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. Nonetheless, 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. Receipt is acknowledged of the requisite maintenance fee and surcharge.

In view of the above, the 7 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Since petitioner indicates patentee is no longer entitled to small entity status, status as a small entity has been removed. All future fees for this patent must be paid as a large entity.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DAVID M QUINLAN
32 NASSAU STREET
SUITE 300
PRINCETON, NJ 08542

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5890095	1999-03-30	08785090	1997-01-21	5691-01300

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	/Eric B. Meyertons/	Date (YYYY-MM-DD)	2009-03-30
Name	Eric B. Meyertons	Registration Number	34876

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. 5890095
Issue Date: March 30,1999
Application No. 08785090
Filed: January 21,1997
Attorney Docket No. G-96-200

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

This is a decision on the electronic petition, filed March 30,2009 ,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 30,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OCT 20 2003

Paper No. 14

In re Application of
Paul D. Richard *et al*
Application No. 08/785,269
Filed: January 17, 1997
Attorney Docket No. 6579-353

: DECISION ON PETITION

This is a decision on the petition filed on September 2, 2003 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to timely file an appeal brief. The petition is being considered under 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the application is not abandoned because a request for a Continued Prosecution Application (CPA) constituting reply to the Office letter in question was in fact filed on September 2, 1998. The request for filing a CPA is in fact of record in the file. It is clear from the papers of record as paper No. 10, as well as from Office financial records showing receipt of the fees tendered with the papers, that this application is not in fact abandoned.

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 processing of the Continued Prosecution Application (CPA) that is part of paper No. 10. Thereafter, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

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

Charles W. Almer
Warner Lambert Company
Patent Department
201 Tabor Road
White Plains, NJ 07950

cc: Richard R. Michaud
McCormick, Paulding & Huber LLP
CityPlace II
185 Asylum Street
Hartford, CT 06103-3402

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NOV 14 2005

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www.uspto.go

Richard R Michaud
The Michaud-Duffy Group LLP
306 Industrial Park Road Suite 206
Middletown, CT 06457

Paper No. 20

In re Application of
RICHARD ET AL.
Appl No.: 08/785,269
Filed: January 17, 1997
For: VACUUM BRAKE BOOSTER FOR MOTOR VEHICLES
Attorney Docket Number: ATEVP7773

DECISION GRANTING PETITION
37 CFR 1.181

This is a decision on petitioner's request to review the holding of abandonment, mailed October 15, 2004 for failure to timely respond to the office action mailed January 8, 2004. In view of petitioner's comments, the petition is considered pursuant to 37 CFR 1.181. No fee is required for the petition.

The petition is granted.

In support of the request, petitioner has submitted a copy of a response and a copy of the PTO Auto-Reply Facsimile Transmission indicating that the response was received.

In view of the above, the Notice of Abandonment mailed October 15, 2004 is hereby vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and to enter the amendment. The application will then be forwarded to the examiner for consideration of the amendment.

Richard A. Bertsch, Director
Technology Center 3700

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)
5855757	1999-01-05	08785295	1997-01-21	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Olivo Sivilotti/	Date (YYYY-MM-DD)	2007-12-19
Name	OLIVO SIVILOTTI		

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. 5855757
Issue Date: January 5,1999
Application No. 08785295
Filed: January 21,1997
Attorney Docket No. 71018-0105

:

: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

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

DAVID M. CROMPTON
CROMPTON, SEAGER & TUFTE, LLC
SECOND AVENUE SOUTH
SUITE 895
MINNEAPOLIS, MN 55401

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A/C PATENTS

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AUG 2 9 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Reissue Application of
Qian
Application No. 08/785,445
Filed: May 8, 2000 (CPA)
For: Method for Inducing Thrombosis in Blood Vessels

(Remailed)

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

This is in response to the "Petition Under 37 CFR 1.47(b)," filed January 18, 2000.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor in compliance with 37 CFR 1.63. 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 January 17, 1997, without a declaration executed by the inventor and signed instead by Herbert Larson on behalf of Mr. Qian.

Mr. Larson states that Mr. Qian has returned to China and cannot be reached.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks items (1) set forth above.

As to item (1), applicant has not demonstrated that Mr. Qian cannot be reached after a diligent effort. To demonstrate that the inventor could not be reached after a diligent effort, applicant needs to demonstrate the diligent effort to reach the inventor. For example, a copy of the application papers should be sent to the last known address of the non-signing inventor with a request that he sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventor, e.g. through e-mail or the telephone should also be considered to demonstrate a diligent effort to locate the inventor.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

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

Karin Tyson
Senior Legal Advisor
Special Program Law Office
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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David M. Crompton
Crompton Seager & Tufte LLC
331 Second Ave South STE 895
Minneapolis MN 55401-2246

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OFFICE OF PETITIONS

In re Application of :
QIAN :
Application No. 08/785,445 : DECISION ACCORDING STATUS
Filed: January 17, 1997 : UNDER 37 CFR 1.47(b)
For: METHOD FOR INDUCING THROMBOSIS:
IN BLOOD VESSELS

This is in reply to the petition under 37 CFR 1.47(b), filed June 4, 2001.

The petition is granted.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status and the application will be processed with an indication of SciMed Life Systems, Inc., as the party in interest under 35 U.S.C. § 118.

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 Declaration. Notice of the filing of this application will also be published in the Official Gazette.

A courtesy copy of this letter has been mailed to the address below. However, the firm below appears to have improperly associated this application with their customer number. The Office computer records will be corrected to show the above-address as the correct address.

After this decision is mailed, the above-identified application will be forwarded to Group Art Unit 3736 for further processing.

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

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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Quingua Qian
Schittenhelstrasse 12
2300 Kiel 1
Germany

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AUG 3 1 2001

OFFICE OF PETITIONS

In re Application of :
QIAN :
Application No. 08/785,445 : Letter
Filed: January 17, 1997 :
For: METHOD FOR INDUCING THROMBOSIS:
IN BLOOD VESSELS

Dear Mr. QIAN:

You are named as a sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a sole 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 the undersigned at (703)305-9285. 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).

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

David M. Crompton
Crompton Seager & Tufte LLC
331 Second Ave South STE 895
Minneapolis MN 55401-2246

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SWANSON & BRATSCHUN, LLC
1745 SHEA CENTER DRIVE
SUITE 330
HIGHLANDS RANCH, CO 80129

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OFFICE OF PETITIONS

In re Application of	:	
John E. Hodgson et al	:	
Application No. 08/785,455	:	ON PETITION
Filed: January 17, 1997	:	
Attorney Docket No. P31353	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 15, 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 January 16, 2004.

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

The matter is being forwarded to Technology Center AU 1652 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

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MAR 3 1 2008

In re Application of	:	
GRAY, Joe W. et al.	:	
Application No. 08/785,532	:	DECISION ON PETITION
Filed: January 17, 1997	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 17, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jonathan A. Quine on behalf of all attorneys of record who are associated with customer No. 22798. All attorneys/agents associated have been withdrawn.

The correspondence address of record to customer No. 22434 remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BEYER WEAVER LLP**
P.O. BOX 70250
OAKLAND, CA 94612-0250

UNITED STATES 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. 5871618
Issue Date: February 16,1999
Application No. 08785591
Filed: January 16,1997
Attorney Docket No. PF-6455

:

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

:

This is a decision on the electronic petition, filed August 8,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 8,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5871618	1999-02-16	08785591	1997-01-16	PF-6455

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2007-08-08
Name	Kendal M. Sheets	Registration Number	47077

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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)
6045258	2000-04-04	08786405	1997-01-21	1-51374

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	/Gregg W. Emch/	Date (YYYY-MM-DD)	2010-01-05
Name	Gregg W. Emch	Registration Number	38868

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. 6045258
Issue Date: April 4,2000
Application No. 08786405
Filed: January 21,1997
Attorney Docket No. SO-746

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

This is a decision on the electronic petition, filed January 5,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 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.

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)
5749171	1998-05-12	08788616	1997-01-27	8402.222

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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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	/klhester/	Date (YYYY-MM-DD)	2012-05-14
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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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.

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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. 5749171
Issue Date: May 12,1998
Application No. 08788616
Filed: January 27,1997
Attorney Docket No. 8402.222

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

This is a decision on the electronic petition, filed May 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 2 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 19

Charles A. Johnson
Unisys Corporation
MS 4772
2276 Highcrest Road
Roseville, MN 55113

In re Application of: Kerzman, et al. Application No. 08/789,025 Attorney Docket No. 33012/184/10 Filed: January 27, 1997 For: METHOD AND APPARATUS FOR EFFICIENTLY VIEWING A NUMBER OF SELECTED COMPONENTS USING A DATABASE EDITOR TOOL	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the Request to withdraw the holding of abandonment of the instant application, filed on February 2, 2004. The request is being treated as a petition to withdraw the holding of abandonment, under 37 CFR §1.181.

The instant application became abandoned for failure to timely respond to the Notice of Defective Brief (PTO-462) mailed February 14, 2002. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith is acceptable. No fee is required.

Applicant has provided evidence in the petition that includes: a copy of the response and transmittal letter; as well as a post card receipt identifying the response and which includes a USPTO receipt date of March 21, 2002.

Since all of the criteria set forth above have been met, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment (restore the instant application to pending status), to enter the response (copy, filed with certificate of mailing under 37 C.F.R. 1.8, dated March 11, 2002). The application will then be forwarded to the examiner for prompt action on the merits.

10/13/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
703-308-0885

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.
08/790,097	01/29/97	TOUBOUL S	557

LM21/0427

MARC A. SOCKOL, ESQ.
GRAHAM & JAMES, LLP
600 HANSEN WAY
PALO ALTO CA 94304-1043

EXAMINER
ELMORE, S

ART UNIT	PAPER NUMBER
2785	16

DATE MAILED: 04/27/00

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

Graham & James, LLP
600 Hansen Way
Palo Alto, CA 94304-1043

Paper No. 16

In re Application of
Shlomo Touboul
Serial No. 08/790,097
Filed: January 29, 1997
For: SYSTEM AND METHOD FOR PROTECTING A CLIENT DURING RUNTIME FROM HOSTILE DOWN-LOADABLES

: DECISION ON PETITION UNDER
: 37 CFR 1.97 FOR CONSIDERATION
: OF INFORMATION DISCLOSURE
: STATEMENT AFTER FINAL
: REJECTION

The petition filed March 27, 2000, under 37 CFR 1.97 (d)(2)(ii) for consideration of an information disclosure statement after final rejection has been:

[X] GRANTED.

[ ] DENIED.

The petition lacks:

[ ] The required fee under 37 CFR 1.97(d)(2)(iii) and 1.17 (I)(l).

[ ] A proper certification as specified in 37 CFR 1.97(d)(2)(I) and 1.97(e).

[ ] The information disclosure statement has been placed of record in the file but not be considered by the examiner.

Robert Beausoliel
Supervisory Patent Examiner
Art Unit 2785

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 12 2005
OFFICE OF PETITIONS

In re Application of
Shlomo Touboul
Application No. 08/790,097
Patent No. 6,167,520
Filed: January 29, 1997
Issue Date: December 26, 2000
Attorney Docket Number: 557
Title: SYSTEM AND METHOD FOR PROTECTING A CLIENT FROM HOSTILE DOWNLOADABLES

DECISION ON PETITION UNDER 37 C.F.R. §3.81(B)

This is a decision on the petition filed June 27, 2005 under 37 C.F.R. §1.183, which is properly treated as a petition under 37 C.F.R. §3.81(b)[1], to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

Petitioner states that erroneous information pertaining to an assignee was inadvertently entered on form PTOL-85B, and requests that a Certificate of Correction be issued containing the correct information pertaining to this assignee. Petitioner submits a "Certificate of Correction" for this purpose, which lists the Assignee's name as "Finjan Software, Ltd., Kefar-Haim, Israel."

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

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the

1 See Official Gazette, June 22, 2004.

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.

Both Petitioner's evidence and Office records show that the assignment of the above-identified application to this assignee was submitted for recording in the Office on April 2, 1997 (Reel/Frame 008408 / 0932). This was prior to the date of issuance of December 26, 2000.

The petition is **GRANTED**.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

#49

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSS J. OEHLER
AVENTIS PHARMACEUTICALS, INC.
ROUTE 202-206
MAIL CODE D303A
BRIDGEWATER, NJ 08807

In re Application of	:
Alexander J. Ryncarz	:
Serial No.: 08/791,240	: PETITION DECISION
Filed: January 30, 1997	:
Attorney Docket No.: USAV2001/0133	:

This is in response to the petition under 37 CFR 1.181, filed September 10, 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 applicant on May 22, 2002, setting a three month shortened statutory period for reply. Applicants filed a reply to the Office action by facsimile on November 21, 2002, accompanied by a three month extension of time and fee authorization therefore. On <ay 25, 2003, the Office mailed a Notice of Abandonment to applicants for failure to file a reply to the Office action. The reply has now been located and placed in the file. Thus 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 Petition Fee paid of $130.00 will be credited to applicants' Deposit Account No. 18-1982, as directed, and 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

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Brumbaugh Graves Donohue & Raymond
30 Rockefeller Plaza
New York, NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Markus Loepfe et al.	:	
Application No. 08/791,623	:	DECISION ON PETITION
Filed: January 31, 1997	:	TO WITHDRAW
Attorney Docket No. A30872-256/3	:	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

UNITED STATES 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. 5836837
Issue Date: November 17,1998
Application No. 08792547
Filed: November 6,1996
Attorney Docket No. 102197.1

:

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

:

This is a decision on the electronic petition, filed November 20,2006 ,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 20,2006. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5836837	1998-11-17	08792547	1996-11-06	CARCH.00002

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	/Colin P. Cahoon/	Date (YYYY-MM-DD)	2006-11-20
Name	Colin P. Cahoon	Registration Number	38836

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 18

William H. Oldach III
Vorys, Sater, Seymour and Pease LLP
1828 L Street, N.W.
Eleventh Floor
Washington, D.C. 20036-5109

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MAR 2 7 2003

OFFICE OF PETITIONS

In re Patent No: 5,863,171 :
Issue Date: January 26, 1999 :
Application No. 08/793,041 : ON PETITION
Filed: August 14, 1995 :
Patentee: Bengt Engman :

This is a decision on the petition under 37 CFR 1.378(c), filed March 20, 2003, to accept the unintentionally 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.

In view of the submission of the 3½ year large entity maintenance fee in the amount of $890.00, status as a small entity has been removed.

Petitioner will not receive future correspondence related to maintenance fees for the above-identified patent unless a "fee address" (see PTO/SB/47) is submitted for the above-identified patent.

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 patent file is being forwarded to Files Repository.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Sherry D. Brinkley
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
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In re Patent No. 5929644
Issue Date: July 27,1999
Application No. 08794221
Filed: January 30,1997
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed October 5,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 5,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,929,644	1999-07-27	08/794,221	1997-01-30	5043.006US1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles A. Lemaire/	Date (YYYY-MM-DD)	2007-10-05
Name	Charles A. Lemaire	Registration Number	36198

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
Washington, D.C. 20231
www.uspto.gov

JAN 18 2000

Paper No. 40

MARK D ROWLAND
FISH AND NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK , NY 10020-1104

In re Application of NELSON Application No. 08/794,374 Filed: December 10, 1996 Patent No. 4,823,070 Issued: April 18, 1989 For: SWITCHING VOLTAGE REGULATOR CIRCUIT	))))))))	DECISION ON REQUEST FOR SUSPENSION OF ACTION

This is a decision on the Request for Continued Suspension of Action in Reissue Application in view of Concurrent Litigation, filed on October 6, 1999 and supplemented on July 27, 2000.

The request for suspension is GRANTED to the extent indicated below.

In view of concurrent litigation, and in order to avoid duplication of effort between the two proceedings, action in this reissue application continues to be STAYED until such time as it is evident to the examiner that (1) a stay of the litigation is in effect, (2) the litigation has been terminated, (3) there are no significant overlapping issues between the application and the litigation, or (4) applicant requests that the application be examined. Applicant should keep the Office informed of the continuing status of the litigation.

Hien H. Phan, Special Programs Examiner
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

MICHAEL L. GOLDMAN
NIXON HARGRAVE DEVANS AND DOYLE
CLINTONN SQUARE
P O BOX 31051
ROCHESTER, NY 14603-1051

COPY MAILED
JUN 2 5 2004
OFFICE OF PETITIONS

In re Application of	:	
Francis Barany et al	:	
Application No. 08/794,851	:	DECISION GRANTING PETITION
Filed: February 4, 1997	:	UNDER 37 CFR 313(c)(2)
Atty Docket No. 19603/468 (CRF D-1595C)	:	

This is a decision on the petition, filed June 7, 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 March 25, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

This matter is being referred to Technology Center AU 1639 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

In re Patent No. 5995936
Issue Date: November 30,1999
Application No. 08794950
Filed: February 4,1997
Attorney Docket No. 0052-005

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

This is a decision on the electronic petition, filed July 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
5995936	1999-11-30	08/794,950	1997-02-04	

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	/Colin Brenan/	Date (YYYY-MM-DD)	2009-07-21
Name	Colin Brenan		

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
DIW Jan-07

Paper No. 16

MORRIS E COHEN
LEVISOHN LERNER BERGER & LANGSAM
19th Floor
805 Third Avenue
NEW YORK NY 10022

COPY MAILED

JAN 31 2007

OFFICE OF PETITIONS

In re Patent No. 5,962,851	:	
Issued: 5 October, 1999	:	
Application No. 08/794,970	:	ON PETITION
Filed: 5 February, 1997	:	
Atty Docket No. 840.043.002	:	

This is in response to the deficiency fee payment filed pursuant to 37 CFR 1.28(c) on 4 January, 2006.

37 CFR 1.28(c) states, "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full."

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.**

Small entity status no longer applies.

The file is being forwarded to Files Repository.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/21/2007 2ND REQ 12/5/07 **Paper No.:** 26

TO SPE OF : ART UNIT **2800 (2814)**

SUBJECT : Request for Certificate of Correction on Patent No.: **6,259,159**

Attn: Nathan Ha

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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.

Ok to enter change to claim 1 as requested in COCIN?

Thank You For Your Assistance

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

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

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

Comments:

The newly added limitation, "said solder ball being deformed due to reflow process," alters the scope of the claim, and the newly added limitation was not introduced during the process of prosecution.

Nathan Ha
4/15/08

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FLEHR HOHBACH TEST
ALBRITTON AND HERBERT
SUITE 3400
FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

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MAY 13 2005
OFFICE OF PETITIONS

In re Application of:	
Crawford et al.	
Application No. 08/795,592	DECISION GRANTING
Filed: February 6, 1997	PETITION UNDER
Title of Invention:	37 CFR 1.47(a)
APPARATUS AND METHOD FOR MANAGING	
DIGITAL RESOURCES BY CONTROLLING	
TOKENS ASSOCIATED WITH DIGITAL	
RESOURCES	

This is in response to a Petition under 37 CFR 1.47(a), filed November 3, 1997, and supplemented February 18, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Volker Lindenstruth, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

The address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to

address of record until instructions to the contrary are received.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

Cc: Morgan, Lewis & Bockius LLP
2 Palo Alto Square
3000 El Camino Real
Suite 700
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

VOLKER LINDENSTRUTH
8754 TERRACE DRIVE
EL CERRITO, CA 94530

In re Application of:	:	
Crawford et al.	:	
Application No. 08/795,592	:	LETTER
Filed: February 6, 1997	:	
Title of Invention: APPARATUS	:	
AND METHOD FOR MANAGING DIGITAL	:	
RESOURCES BY CONTROLLING TOKENS	:	
ASSOCIATED WITH DIGITAL RESOURCES	:	

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OFFICE OF PETITIONS

Dear Mr. Lindenstruth:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as 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 the undersigned at (703) 305-0014. 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).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: Morgan, Lewis & Bockius LLP
2 Palo Alto Square
3000 El Camino Real
Suite 700
Palo Alto, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 12 2004
OFFICE OF PETITIONS

FITZPATRICK CELLA
HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10172

In re Application of
Hiroyuki Inoue, et al.
Application No. 08/796,519
Filed: February 7, 1997
Attorney Docket No. 684.2213-DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 11, 2004, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 7, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 2853 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5768818
Issue Date: June 23,1998
Application No. 08797040
Filed: February 10,1997
Attorney Docket No. 1297-P1

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

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

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)
5768818	1998-06-23	08797040	1997-02-10	

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	/Robert A. Parsons/	Date (YYYY-MM-DD)	2008-01-30
Name	Robert A. Parsons	Registration Number	32713

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

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

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

In re Patent No. 5829986
Issue Date: November 3,1998
Application No. 08797140
Filed: February 10,1997
Attorney Docket No. HNY-P7

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

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

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)
5829986	1998-11-03	08797140	1997-02-10	HNY-P7

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

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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	/glenn f ostrager/	Date (YYYY-MM-DD)	2008-06-19
Name	Glenn F. Ostrager	Registration Number	29963

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

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ALEXANDRIA, VA 22313-1450
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

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FEB 04 2008

OFFICE OF PETITIONS

#28

In re Application of
Deangelis
Application No. 08/797,188
Filed: February 11, 1997
Attorney Docket No. ROSTS-40907

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a proper reply to the Reconstruction Notice mailed November 16, 2004. Notice of Abandonment was mailed June 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response to the Notice to Reconstruct; (2) the required petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Kang appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Kang 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. Kang, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

This application is being referred to the Office of Patent Publications for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Gregory Kang
Nath & Associates
1030 15th Street, N.W.
Sixth Floor
Washington, DC 20005

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,032,360	2000-03-07	08/797,518	1997-02-07	M-132

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	/Victor F. Lohmann, III/	Date (YYYY-MM-DD)	2008-07-22
Name	Victor F. Lohmann, III	Registration Number	33951

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. 6032360
Issue Date: March 7,2000
Application No. 08797518
Filed: February 7,1997
Attorney Docket No. M-132

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

This is a decision on the electronic petition, filed July 22,2008 ,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 July 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 29

Robin W. Edwards
NASA LANGLEY RESEARCH CENTER
3 LANGLEY BOULEVARD
MAIL STOP 212
HAMPTON, VA 23681-2199

JUL 9 2002

In re Application of:	:	
Hellbaum *et al.*	:	DECISION *SUA SPONTE*
Application No. 08/797,553	:	WITHDRAWING HOLDING
Filed: January 24, 1997	:	OF ABANDONMENT
Attorney Docket No: LAR-15348-2	:	

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A non-final Office action was mailed June 19, 2001. In the apparent absence of a response to the final Office action, the application was held abandoned and a Notice of Abandonment was mailed on March 27, 2002.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated, the holding of abandonment withdrawn and the application restored to pending status in view of the fact that a proper response to the Office action of June, 19, 2001 was received in the United States Patent and Trademark Office (PTO) on January 18, 2002. The response was accompanied by a request for an extension of time of three months and the requisite fee. Additionally, the response included a proper Certificate of Mailing under 37 C.F.R. 1.8 having a date of deposit with the United States Postal Service of December 19, 2001. Accordingly, the response was timely.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the amendment. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries related to this decision should be directed to Lissi Mojica Marquis, Special Programs Examiner, at (703) 308-2260.

Henry H. Phan

Hien H. Phan, Special Programs Examiner
Technology 2800
Semiconductors, Electrical and Optical
Systems and Components

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COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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JJGJr.:08-02

Paper 34

ROBIN W. EDWARDS
NASA LANGLEY RESEARCH CENTER
3 LANGLEY BLVD.
MAIL STOP 212
HAMPTON VA 23681-2199

COPY MAILED

SEP 03 2002

OFFICE OF PETITIONS

In re Application of
Hellbaum, et al.
Application No. 08/797,553
Filed: 24 January, 1997
Attorney Docket No.: LAR-15348-2

ON PETITION

This is a decision request to withdraw the holding of abandonment, properly considered under 37 C.F.R. §1.181,[1] and alternatively a petition to revive (authorized at the fee for unintentional delay) and properly considered under 37 C.F.R. §1.137(b).[2]

The petition under 37 C.F.R. §1.181 is **DISMISSED as moot**; and

---

[1] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:

§1.181 Petition to the Commissioner.
(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *
(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declaration (and exhibits, if any) must accompany the petition.
(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.
(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed. * * *
(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * *

[2] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

The petition under 37 C.F.R. §1.137(b) is **DISMISSED as moot**.

The record indicates that:

- it appeared that Petitioner had failed to reply properly and timely to the non-final Office action mailed on 19 June, 2001, with response due (absent extension of time) on or before 19 September, 2001;
- therefore, it appeared that the application went abandoned after midnight 19 September, 2001;
- as a result, a Notice of Abandonment was mailed on 27 March, 2002;
- however the record now indicates that on 18 January, 2002, Petitioner filed a reply (over a 19 December, 2001, certificate of mailing) to the 19 June, 2001, Office action with a request (and fee) for a three- (3-) month extension of time;
- moreover, on 9 July, 2002, the Technology Center (2800) withdrew *sua sponte* the holding of abandonment.

Therefore the petition under:

- 37 C.F.R. §1.181 must be and hereby is **dismissed as moot**; and
- 37 C.F.R. §1.137(b) must be and hereby is **dismissed as moot**.

The petition fee of $100.00 previously charged to Deposit Account 14-0116 is credited back to that account. No other fees were charged.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6326198	2001-12-04	08/797,730	1997-02-11	152454USMF

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6326198
Issue Date: December 4,2001
Application No. 08797730
Filed: February 11,1997
Attorney Docket No. 2363-131-55A

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

This is a decision on the electronic petition, filed June 13,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 June 13,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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www.uspto.gov

In re Patent No. 6326198
Issue Date: December 4,2001
Application No. 08797730
Filed: February 11,1997
Attorney Docket No. 2363-131-55A

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

This is a decision on the electronic petition, filed February 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 17,2010 . 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.

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P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED
MAR 09 2010

In re Patent No. 6,326,198 :
Issued: December 4, 2001 :
Application No. 08/797,730 : DECISION ON REQUEST
Filed: February 11, 1997 :
Attorney Docket No. 2363-131-55A :

This is a decision on the request filed February 17, 2010, for refund of the second maintenance fee, and that the Patent Office records be updated to reflect that Patent No. 6,326,198 has expired.

The request is **DISMISSED**.

The request is dismissed because the request is not signed by a proper party. The request is signed by Jackie A. Ryan. **Note 37 CFR 1.33(b),** which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A 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.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Number: 6,326,198	: Attn: Mr. George Allen : Supervisor, Maintenance Fee Department
Application Number: 08/797,730	:
Filed: February 11, 1997	:
Issued: December 4, 2001	:

For: "Methods and Compositions for the Ex Vivo Replication of Stem Cells, For The Optimization of Hematopoietic Progenitor Cell Cultures, ..."

LETTER

HONORABLE COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicants hereby request a refund of $ 2880.00 for the second maintenance fee ($1240.00) and the petition fee ($1640.00) for unintentionally delayed payment of the second maintenance fee. Applicants also request the Patent Office records be updated to reflect Patent 6,326,198 has expired.

This request is due to the fact that this patent expired on June 15, 2009, which is 20 years from June 15, 1989, which is the effective filing date of CIP application number 07/366,639.

The Patent Office records do not show this patent as being expired. Bibliographic data shows the window for the 12th year fee opens December 4, 2012. Also, the payment of the second maintenance fee and the petition filed on February 17, 2010 was accepted, when in fact, this patent has expired.

The Commissioner is hereby authorized to apply this refund in the amount of $2880.00 to our Deposit Account Number 15-0030.

Should any further questions arise, please do not hesitate to contact us.

Respectfully submitted,

OBLON, SPIVAK, MCCLELLAND,
MAIER & NEUSTADT, L.L.P.

Jackie Ryan

Jackie A. Ryan
U.S. Annuity Management

1940 Duke Street
Alexandria, Virginia 22314
(703) 413-5267
152454USMF
/jar

OBLON SPIVAK

OBLON SPIVAK

ATTORNEYS AT LAW

FACSIMILE

PLEASE CALL US AT (703) 413-3000 IF THE MESSAGE YOU RECEIVE IS INCOMPLETE OR NOT LEGIBLE

ATTORNEYS AT LAW

1940 DUKE STREET
ALEXANDRIA, VIRGINIA 22314
USA

(703) 413-3000
(703) 413-2220 FACSIMILE

OBLONPAT@OBLON.COM

PATENT, TRADEMARK AND COPYRIGHT LAW
AND RELATED FEDERAL AND ITC LITIGATION

WWW.OBLON.COM

TO	Mr. George Allen NAME	February 16, 2010 DATE
	Maintenance Fee Department COMPANY/FIRM	571-273-6500 FAX #
	NUMBER OF PAGES INCLUDING COVER: 3	CONFIRM FAX: ■ YES ☐ NO
FROM	Jackie Ryan NAME	152454USMF OUR REFERENCE
	703-412-6257 DIRECT PHONE #	YOUR REFERENCE

MESSAGE

Unless otherwise indicated or obvious from the nature of the transmittal, the information contained in this facsimile message is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service at our Expense. Thank You.

Feb. 17. 2010 1:48PM oblon spivak No. 5938 P. 3

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United States Patent and Trademark Office

Patent Bibliographic Data				02/17/2010 12:32 PM	
Patent Number:	6326198		Application Number:	08797730	
Issue Date:	12/04/2001		Filing Date:	02/11/1997	
Title:	METHODS AND COMPOSITIONS FOR THE EX VIVO REPLICATION OF STEM CELLS, FO				
Status:	12th year fee window opens: 12/04/2012			Entity:	Small
Window Opens:	12/04/2012	Surcharge Date:	06/05/2013	Expiration:	N/A
Fee Amt Due:	Window not open	Surchg Amt Due:	Window not open	Total Amt Due:	Window not open
Fee Code:	2553	MAINTENANCE FEE DUE AT 11.5 YEARS			
Surcharge Fee Code:					
Most recent events (up to 7):	02/17/2010 02/17/2010 02/17/2010 02/17/2010 02/17/2010 12/04/2009 06/15/2009	Petition Related to Maintenance Fees Granted. Petition Related to Maintenance Fees Filed. Surcharge, Petition to Accept Pymt After Exp, Unintentional. Payment of Maintenance Fee, 8th Yr, Small Entity. Pat Holder Claims Small Entity Status Patent Reinstated After Maintenance Fee Payment Confirmed. Maintenance Fee Reminder Mailed. --- End of Maintenance History ---			
Address for fee purposes:	OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTA 1940 DUKE STREET ALEXANDRIA, VA 22314				

Run Another Query

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PAGE 3/3 * RCVD AT 2/17/2010 1:48:51 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/21 * DNIS:2736500 * CSID:7034132220 * DURATION (mm-ss):00-38

SPE: C. McDermott

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/6/07

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/797,720 Patent No.: 7001328

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**.

Lamonte M. 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: The proposed assignee change does not agree with the current assignee information of the file, and the publication proposed to be added was not considered during prosecution. It was struck from the PTO-1449

Omm
SPE

3738
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

Date :08/23/07

Patent No. : 7001328 B1
Ser. No. : 08/797,770
Inventor(s) : BAROFSKY, ANDREW D.
Issued : 02/21/06
Title : **METHOD FOR USING TROPOELASTIN & FOR PRODUCING TROPOELASTIN BIOMATERIALS**

Docket No. : 4430-18

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : 08/23/07

Patent No. : 7001328 B1
Patent Issued : 02/21/06
Docket No. : **4430-18**

Re: Request for Certificate of Correction

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

Respecting the alleged errors in the documents filed on 07/02/07; please see attachment. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

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

Lamonte M. Newsome
For Cecelia Newman, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703)-308-9390 #112

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

LMN

SPE: C. McDermott

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/6/07

TO SPE OF : ART UNIT 3738

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/797,720 Patent No.: 7001328

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.

Lamonte M. 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: The proposed assignee change does not agree with the current assignee information of the file, and the publication proposed to be added was not considered during prosecution. It was struck from the PTO-1449

Cmn
SPE

3738
Art Unit

PTOL-306 (REV. 7/03) 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

In re Patent No. 6035834
Issue Date: March 14,2000
Application No. 08798221
Filed: February 10,1997
Attorney Docket No.

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

This is a decision on the electronic petition, filed October 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 October 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 the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,035,834	2000-03-14	08/798,221	1997-02-10	R7950004PM

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 S. HILTEN/	Date (YYYY-MM-DD)	2008-10-13
Name	John S. Hilten	Registration Number	52518

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 16, 2007

TO SPE OF : ART UNIT ~~2186~~ → 2189

SUBJECT : Request for Certificate of Correction on Patent No.: 6912680 B1

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.

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
***Tel. No. 703-**308-9390 EXT 110*

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:

RGB Reginald G. Bragdon — 2189
SPE — **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. 23

Perkins Coie LLP
101 Jefferson Drive
Menlo Park, CA 94025-1114

COPY MAILED

SEP 1 7 2002

OFFICE OF PETITIONS

In re Application of	:	
Paul L. Hickman	:	
Application No. 08/798,702	:	ON PETITION
Filed: February 12, 1997	:	
Attorney Docket No. NEO1P011	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 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 November 5, 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 February 6, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Frances Hicks at (703)305-8680.

The application file is being forwarded to Technology Center 2100, Art Unit 2152.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
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

Paper No. 23

PERKINS COIE LLP
101 JEFFERSON DRIVE
MENLO PARK, CA 94025-1114

COPY MAILED

SEP 0 3 2003

OFFICE OF PETITIONS

In re Application of
Hickman et al.
Application No. 08/798,703
Filed: February 12, 1997
Attorney Docket No. 59333-8010.US01

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 10, 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 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 June 12, 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 became abandoned on August 13, 2002. 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 2100.

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

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

EDWIN P CHING
DNAX RESEARCH INSTITUTE
901 CALIFORNIA AVENUE
PALO ALTO CA 94304-1104

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JUL 0 9 2004

OFFICE OF PETITIONS

In re Application of
Caux et al.
Application No. 08/799,028
Filed: February 10, 1997
For: MAMMALIAN DENDRITIC CELL CHEMOKINE REAGENTS

: Decision on
: Petition to Correct
: Patent Term Extension

In response to the "Petition Under 37 CFR 1.181" to correct the patent term extension in the Notice of Allowance, which was filed on June 14, 2004, the above-identified application has been forwarded to the undersigned for review of the extension information to be printed on the face of the patent. See 35 U.S.C. § 154(b)[1] and 37 C.F.R. § 1.701. The Notice of Allowance and Issue Fee Due incorrectly indicated that the patent to issue from the application 08/799,028 is eligible for a 350 day extension, where a 61 day extension is due.

The petition is GRANTED.

After mailing of this decision, the above-identified application will be returned to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **61 days.**

Petitioner's deposit account has not been charged a petition fee.

Telephone inquiries with regard to this communication should be directed to Mark Polutta at (703) 308-8122.

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

[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 existing patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified 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

In re Patent No. 5998601
Issue Date: December 7,1999
Application No. 08799464
Filed: February 13,1997
Attorney Docket No. 22907-CNT

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

This is a decision on the electronic petition, filed March 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
5998601	1999-12-07	08799464	1997-02-13	22907-CNT

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	/Tracey S. Truitt/	Date (YYYY-MM-DD)	2008-03-07
Name	Tracey S. Truitt	Registration Number	43205

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.

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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. 6018336
Issue Date: January 25,2000
Application No. 08800030
Filed: February 13,1997
Attorney Docket No. 043291718

:

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

:

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

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)
6018336	2000-01-25	08800030	1997-02-13	043291718

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2008-01-29
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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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
PO Box 1450
Arlington, VA 22313-1450

Paper No. 32

Thomas R. Fitzgerald
Reynolds Arcade Bldg., Suite 210
16 E. Main Street
Rochester, NY 14614-1803

COPY MAILED

JUN 0 9 2003

OFFICE OF PETITIONS

In re Application of :
Robert K. Riffee :
Application No. 08/800,574 :
Filed: February 18, 1997 :
Attorney Docket No. 90041.97R074/CSD-55 :

ON PETITION

This is a decision on the petition filed May 30, 2003, to revive the instant non-provisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notification of Non Compliance with 37 CFR 1.192(c) mailed December 31, 2002, which set a reply period of (1) one-month or (30) Thirty Days, whichever is later 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 1, 2003.

The application file is being forwarded to Technology Center AU 2613.

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

Paper No. 8

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APR 19 2004
OFFICE OF PETITIONS

WILLIAM ERVIN BROWN
296 HARTYES LANE
ORMOND BEACH, FL 32174

COPY MAILED
MAR 23 2004
OFFICE OF PETITIONS

In re Application of :
William Ervin Brown :
Application No. 08/800,809 : ON PETITION
Filed: February 18, 1997 :
Title: Liquid Polish :

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before December 27, 2001. Accordingly, this application became abandoned on December 28, 2001. A Notice of Abandonment was mailed on April 12, 2002.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

RECEIVED
APR 26 2004
OIPE/JCWS

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)
5922238	1999-07-13	08800872	1997-02-14	100.048

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.

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SURCHARGE
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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	/Leonard Tachner/	Date (YYYY-MM-DD)	2007-08-22
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.**

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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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www.uspto.gov

In re Patent No. 5922238
Issue Date: July 13,1999
Application No. 08800872
Filed: February 14,1997
Attorney Docket No.

:

: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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

In re Patent No. 5863030
Issue Date: January 26,1999
Application No. 08802267
Filed: February 19,1997
Attorney Docket No. T4699

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

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

The petition is GRANTED.

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

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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)
5863030	1999-01-26	08802267	1997-02-19	T4699

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○ 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	/Edward P. Van Pelt, Jr./	Date (YYYY-MM-DD)	2007-04-18
Name	Edward P. Van Pelt, Jr./CEO, Athletica		
Enter Reel and Frame Number		Remove	
Reel Number	012884	Frame Number	0322
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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MAY 26 2009

OFFICE OF PETITIONS

NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON DC 20004-2128

In re Patent No. 5,942,768	:	
Issue Date: August 24, 1999	:	
Application No. 08/802,408	:	DECISION ON PETITION
Filed: February 18, 1997	:	
Attorney Docket No. 740756-1335	:	

This is a decision on the "PETITION UNDER 37 CFR 3.81(b)", filed April 21, 2009.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction, filed April 21, 2009 (a copy of which appears in the Image File Wrapper).

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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)
5853857	1998-12-29	08803223	1997-02-20	CSP-13502/38

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Avery N. Goldstein/	Date (YYYY-MM-DD)	2007-07-24
Name	Avery N. Goldstein	Registration Number	39204

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

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. 5853857
Issue Date: December 29,1998
Application No. 08803223
Filed: February 20,1997
Attorney Docket No. 2872L000370

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

This is a decision on the electronic petition, filed July 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
5912956	1999-06-15	08803288	1997-02-20	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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.

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	/Secure Connections LLC by Barry Stiefel/	Date (YYYY-MM-DD)	2007-08-17
Name	Barry Stiefel for Secure Connections LLC		
Enter Reel and Frame Number		Remove	
Reel Number	019668	Frame Number	0905
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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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
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Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5912956
Issue Date: June 15,1999
Application No. 08803288
Filed: February 20,1997
Attorney Docket No. 123-144

:

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

:

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

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OCT 17 2006

BECTON, DICKINSON AND COMPANY
PATENT AND LICENSING DEPARTMENT.
1 BECTON DRIVE
FRANKLIN LAKES, NJ 07417-1880

In re Application of	:
Vernon C. Maino et. al.	:
Serial No.: 08/803,702	: PETITION DECISION
Filed: February 21, 1997	:
Attorney Docket No.: P-3639P1	:

This is in response to the petition under 37 CFR §1.181, filed June 21, 2006, requesting withdrawal of the holding of non-compliance of the Appeal Brief under 37 CFR 31.37, filed January 24, 2005. The delay in responding to this petition is regretted.

BACKGROUND

A review of the file history shows that a non-final Office action was first mailed on September 16, 1997. The application was subsequently abandoned on June 15, 1998. On March 08, 1999, applicants filed a petition under 37 C.F.R. 1.137(b) to revive an application abandoned unintentionally along with additional claims 20-60. The petition was granted on September 20, 1999. On December 13, 1999, the examiner mailed a restriction requirement. On January 13, 2000, applicants responded by electing group I and the examiner mailed a Final Office action on March 27, 2000.

Applicants filed a CPA on December 12, 2000, to which the examiner responded by mailing a non-final Office action on January 30, 2001. Applicants responded on August 01, 2001 and the examiner mailed a final Office action on August 31, 2001. On January 30, 2002, Applicants mailed an amendment after final, however the examiner did not enter it and mailed an advisory action on February 26, 2002.

Applicants filed a second CPA on July 23, 2002 and the examiner mailed a non-final Office action on December 02, 2002. Applicants responded on March 31, 2003 and the examiner mailed a final Office action on June 13, 2003. Applicants mailed a response on September 03, 2003, indicating that the Final office action was improper and requesting that the finality of the Office action be withdrawn. In response thereto, the examiner withdrew the finality of the Office action and mailed another non-final Office action on October 14, 2003.

Applicants responded on February 17, 2004 and the examiner mailed a final Office action on April 28, 2004. Applicants responded to the final Office action by filing a Notice of Appeal on July 30, 2004. On September 22, 2004, an amendment after final was filed before the Office. On October 14, 2004, the examiner mailed an advisory action to applicants stating that the amendment after final would be entered.

Applicants filed an Appeal brief on November 30, 2004. In response thereto, the examiner mailed a non-compliant notice to the applicants on January 13, 2005, stating that the brief was unsigned and failed to include the name of the registered representative.

To this notice, applicants filed a second Appeal Brief on January 24, 2005.

The examiner mailed a second non-compliance letter on May 22, 2006 indicating that the brief was non-compliant for the reasons given below:

- 37 CFR 41.37 requires a concise explanation of the subject matter defined in each of the independent claims as well as for each dependent claim argued separately, referring to the specification by page and line number. Claims 19, 64, and 65 are summarized.
- note that the 6 page Summary cannot be considered to be "concise" as the majority of it comprises background.
- Further note that many of the page and line number cites do not disclose the steps of the claimed method for which they are cited. For example, page 5, lines 15-17 are cited as disclosing the second step of claim 19. Yet a review of the lines discloses that they merely indicate the concept that the use of agents that block intracellular cytokine secretion enhances their detection when added for a 4 hour incubation. This concept that applies only to a specific time frame, does not describe or support the step of the claimed method for which it is cited.
- Further, it is noted that at page 31, Appellant states that claim 39, which was not separately summarized as would be required, stands only with claim 64 in respect to enablement. Regarding the claims standing or falling together for lack of enablement, at page 25 Appellant states that all the claims on appeal stand or fall together, yet at page 31 Appellant states that claims 39 stand only with claim 64 and at page 32 Appellant states that claim 65 stands alone.

Applicants responded thereto by filing this petition under 37 CFR §1.181, on June 21, 2006, requesting withdrawal of the holding of non-compliance of the Appeal Brief under 37 CFR 31.37, filed January 24, 2005.

DISCUSSION

The requirements under 37 CFR 41.37 for filing an Appeal Brief are as follows:

***>37 CFR 41.37. Appeal brief.*

(a)

(1) Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.

(2) The brief must be accompanied by the fee set forth in § 41.20(b)(2)

(b) On failure to file the brief, accompanied by the requisite fee, within the period specified in paragraph (a) of this section, the appeal will stand dismissed.

(c)

(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an

appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(i) *Real party in interest*. A statement identifying by name the real party in interest.

(ii) *Related appeals and interferences*. A statement identifying by application, patent, appeal or interference number all other prior and pending appeals, interferences or judicial proceedings known to appellant, the appellant 's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board 's decision in the pending appeal. Copies of any decisions rendered by a court or the Board in any proceeding identified under this paragraph must be included in an appendix as required by paragraph (c)(1)(x) of this section.

(iii) *Status of claims*. A statement of the status of all the claims in the proceeding (*e.g.*, rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed.

(iv) *Status of amendments*. A statement of the status of any amendment filed subsequent to final rejection.

(v) *Summary of claimed subject matter*. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

(vi) *Grounds of rejection to be reviewed on appeal*. A concise statement of each ground of rejection presented for review.

(vii) *Argument*. The contentions of appellant with respect to each ground of rejection presented for review in paragraph (c)(1)(vi) of this section, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on. Any arguments or authorities not included in the brief or a reply brief filed pursuant to § 41.41 will be refused consideration by the Board, unless good cause is shown. Each ground of rejection must be treated under a separate heading. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. When multiple claims subject to the same ground of rejection are argued as a group by appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately. Any claim argued separately should be placed under a subheading identifying the claim by number. Claims argued as a group should be placed under a subheading identifying the claims by number. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim.

(viii) *Claims appendix*. An appendix containing a copy of the claims involved in the appeal.

(ix) *Evidence appendix*. An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner. Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) *Related proceedings appendix*. An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

(2) A brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

(d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.

(e) The time periods set forth in this section are extendable under the provisions of § 1.136 of this title for patent applications and § 1.550(c) of this title for ex parte reexamination proceedings.<

Under M.P.E.P. Section 1205.03 [R-3], Non-Compliant Appeal Brief and Amended Brief clearly states that the examiner should not require a corrected brief for minor non-compliance in an Appeal Brief.

See below, particularly part B wherein, for example, if the appellant only presents arguments for a dependent claim but not for the independent claim in a group of claims, the examiner can accept the brief and fully explain how the limitations of the independent claims are rejected and address appellant's arguments.

The examiner should not require a corrected brief for minor non-compliance in an appeal brief (e.g., the brief has a minor error in the title of a section heading). The following are a few other examples where the examiner may accept a brief that has minor non-compliance.

(B) If appellant only presents arguments for a dependent claim but not for the independent claim in a group of claims that are subject to the same ground of rejection, the examiner may accept the brief and fully explain how the limitations of the independent claim are rejected and address the appellant's arguments regarding the dependent claim in the examiner's answer.

In the second Notification of Non-Compliance, the examiner states the following:

I. The summary cannot be considered to be concise.
"First note that the 6 page Summary cannot be considered to be "concise" as the majority of it comprises background."

This assessment by the examiner is incorrect as there is no limit to the number of pages that can be a summary.

II. The page and line number cites do not disclose the steps of the claimed method for which they are cited.
"Further note that many of the page and line number cites do not disclose the steps of the claimed method for which they are cited. For example, page 5, lines 15-17 are cited as disclosing the second step of Claim 19. Yet a review of the lines discloses that they merely indicate the concept that the use of agents that block intracellular cytokine secretion enhances their detection when added for a 4 hour incubation. This concept that applies only to a specific time frame, does not describe or support the step of the claimed method for which it is cited."

This assessment by the Examiner is also incorrect. Non-compliance is with respect to formal matters and not to the merits of the subject matter disclosed in the specification.

III. Claim 39 is not separately summarized.
"Further, it is noted that at page 31 Appellant states that Claim 39, which was not separately summarized as would be required....."

Applicants do summarize independent claim 39 but only along with claim 64 and applicants have given their reasons for doing so. Again, this is with respect to the merits of the claims and not due to formal matters as is required for a brief to be held not in compliance.

IV. The listing of the groupings of claims that stand and fall together is not consistent.

"Further, it is noted that at page 31 Appellant states that Claim 39 [...], stands only with Claim 64 in respect to enablement. Regarding the claims standing or falling together for lack o£ enablement, at page 25 Appellant states that all the claims on appeal stand or fall together, yet at page 31 Appellant states that Claims 39 stand only with Claim 64 and at page 32 Appellant States that Claim 65 stands alone."

It can be seen that appellants have grouped the claims together and separately argued three groups of claims. Appellants argue the first grouping of claims is identified in the Appeal Brief at page 25 ("Claims 19-24, 26-33, 35-38, 40-55, and 61-63 stand or fall together with respect to the present rejection."). Appellants argue the second claim grouping which consists of claims 39 and 64, and is identified in the Appeal Brief at page 31. Appellants argue the third claim grouping, which consists of claim 65 and is identified in the Appeal Brief at page 35. Thus, appellants have divided the claims into three sets and never assert that all the claims stand or fall together.

Applicants' arguments set forth in this petition are found to be convincing, and the Appeal Brief appears to be free from non-compliant matters.

DECISION

The petition is **GRANTED.**

The application will be forwarded to the examiner of further consideration not inconsistent with this decision.

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 sent to the general Office facsimile number 571-273-8300.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071228

DATE : December 28, 2007

TO SPE OF : ART UNIT 1744

SUBJECT : Request for Certificate of Correction on Patent No.: 5,742,972

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 3-910
Palm location **7590** - Tel. No. 305-8201

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:

GLADYS JP CORCORAN
SUPERVISORY PATENT EXAMINER

SPE: Gladys JP Corcoran **Art Unit** 1744

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 07-00

Paper No. 16

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AUG 18 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

MARTIN J. ODONNELL
CESARI AND MCKENNA, LLP
30 ROWES WHARF
BOSTON, MA 02110

In re Application of
Tzannes, Heller, Stautner, Morrell, and Jayashima
Application No. 08/804,909
Filed: 25 February, 1997
Attorney Docket No. 6008/54140

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

This is in response to the petition filed on 7 August, 1997 which is treated as a petition under 37 CFR 1.47(a). The Office apologizes for the delay in responding to the instant petition and regrets any inconvenience to petitioner.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 February, 1997, without an executed oath or declaration and naming Michael A. Tzannes, Peter Niels Heller, John P. Stautner, William R. Morrell, and Sriram Jayashima as joint inventors.

Accordingly, on 6 June, 1997, a "Notice To File Missing Parts Of Application" ("Notice To File Missing Parts") was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 7 August, 1997, (certificate of mailing date 4 August, 1997) a petition was filed under 37 CFR 1.47(a). Petitioner additionally submitted the

following:

(a) a declaration signed by joint inventors Tzannes, Heller, and Morrell on behalf of themselves and by David Hunter, Senior Vice President of Aware, Inc., on behalf of John P. Stautner and Sriram Jayashima;

(b) letters from counsel of record to joint inventors Stautner and Jayashima;

(c) the required petition fee;

(d) a statement that the last known addresses of non-signing joint inventors Stautner and Jayashima are the addresses listed on the letters referenced at (b) above, and

(e) the required surcharge for late filing.

The petition states that the letters identified above were sent to joint inventors Jayashima and Stautner by Express Mail, on 15 July, 1997, but were both returned as undeliverable.

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

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

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

(3) the petition fee; and

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

The petition lacks items (1) and (2). In regards to item (1), petitioner has not submitted sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventors. A copy of the application papers should be sent to the last known address of each non-signing inventor with a request that he or she sign the declaration for the patent application. The specific dates and times that correspondence was mailed, telephone calls or e-mail searches were made should be included. Petitioner should provide a copy of the envelope showing that the application was returned as undeliverable. Petitioner should also explain what attempts were made to obtain a forwarding address and to locate each inventor through other means. If attempts to obtain a forwarding address and to locate the inventor by other means (e.g. though e-mail or the telephone) continue to fail, then applicant will have established that the inventor cannot be reached.

In regards to requirement (2), the declaration is not acceptable because all of the signing inventors have not signed the declaration on behalf of themselves and on behalf of the non-signing inventors. A declaration signed by an assignee or other

third party asserting a proprietary interest on behalf of a non-signing inventor is not acceptable for purposes of granting status under 37 CFR 1.47(a). The declaration is acceptable only if all of the signing inventors signed in their respective signature blocks and the signature block of the nonsigning inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventors.

Furthermore, the signature pages for the declarations signed by Tzannes and Heller are on facsimile copies, while the signature page in the declaration signed by Morrell is an original. As such, there is a question whether the entire declaration or only the relevant signature page, was transmitted to each inventor. Petitioner should provide the entire declaration as returned by each inventor or an affidavit based on personal knowledge that the entire declaration was transmitted to each signing inventor prior to signature by the inventor.

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at 703-308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

FEB 23 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,987,134 :
Issue Date: November 16, 1999 :
Application No. 08/805,151 :
Filed: February 24, 1997 :
Patentee(s) Kil-Ho Shin et al :

This is a decision on the petition filed January 9, 2009 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 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 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.

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

The patent file is being forwarded to Files Repository.

Irvin Dingle
Petitions Examiner
Office of Petitions

Best Available Copy

OIPE
JAN 0 9 2009
PATENT & TRADEMARK OFFICE

Box-M/DAC4

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Received US Bank
JAN 1 6 2009
Gov't. LBX Operations

Patent No.: (5,987,134)

Issue Date: November 16, 1999

Inventor(s): Kil-ho SHIN et al.

Title: DEVICE AND METHOD FOR AUTHENTICATING USER'S ACCESS RIGHTS TO RESOURCES

RECEIVED
JAN 2 8 2009

Docket No.: JAO 35033A

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE

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

Sir:

Attached hereto is our Check No. 214011 in the amount of $4,120 in payment for the second maintenance fee ($2,480) and unintentional delay petition fee ($1,640). The delay in payment of the maintenance fee was unintentional. Please accept these payments, and make any additional debits or credits to Deposit Account No. 15-0461 as necessary, to ensure maintenance of this patent.

Should there be any questions concerning this matter, please telephone the undersigned at the number set forth below.

Respectfully submitted,

01/26/2009 GHINTON 00000007 5987134
01 FC:1552 2480.00 OP
02 FC:1558 1640.00 OP

James A. Oliff
Registration No. 27,075

Moshe K. Wilensky
Registration No. 56,263

JAO:MKW/jft

Date: January 9, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461

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. 4

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OFFICE OF PETITIONS
A/C PATENTS

JAMES R CANNON
BELL SELTZER PARK AND GIBSON
POST OFFICE DRAWER 34009
CHAROLTTE , NC 28234

In re Application of:
LOPRESTI,MICHAEL A,
Application No. 08/807,372
Filed: 02/27/1997
Attorney Docket No. 1399-257

DECISION DISMISSING PETITION

This is a decision on the petition under 37 C.F.R. §1.137(a), filed on February 22, 1999. For reasons stated below, the petition will be treated as one under 37 C.F.R. §1.181. The office sincerely apologizes for any inconvenience caused by the office's delay in responding to this petition.

Application History.

This application was filed on February 27, 1997. While a filing date was granted, the application was lacking a properly executed declaration. Therefore, a notice to file missing parts was mailed to the address of record on June 17, 1997, requesting a properly executed declaration and the $130.00 late filing surcharge required under 37 C.F.R. §1.16(e). A two month extendable period was set for replying. However, no reply was received within that time. Therefore, the application became abandoned on August 18, 1997. Petitioner filed this petition on February 22, 1999. However, the petition requests relief under the wrong rule.

In a petition under 37 C.F.R. §1.137(a), the showing required is one that shows that the delay causing the abandonment is unavoidable.[1] It is noted that the showing presented in the petition at hand attempts to establish that the reply was timely filed. That is not the issue in a petition under 37 C.F.R. §1.137(a). Rather, that type of showing is traditionally made in petitions under 37 C.F.R. §1.181 to withdraw the holding of abandonment. The difference is essentially that, under 37 C.F.R. §1.137(a), the petitioner says "the delay that caused the abandonment was unavoidable", whereas in a petition under 37 C.F.R. §1.181, the petitioner essentially says "it is inappropriate for the PTO to treat my application as though it is in an abandoned status, because it was never properly abandoned." Petitioner is essentially alleging that the required reply was timely and properly sent and that, therefore, this application should not be treated as though it is abandoned. Therefore, the proper rule to petition under would be 37 C.F.R. §1.181 (which requires no fee when grantable), not 37 C.F.R. §1.137. This decision will therefore treat this petition accordingly.

The Law.

§ 1.8 Certificate of mailing or transmission.

(a) ...

[1] 37 C.F.R. §1.137(a)(3).

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

Analysis.

There is no statement by the individual with personal knowledge regarding the timely mailing of the correspondence. Mrs. Judy S. Creel signed the certificate of mailing on the reply. Therefore, she is assumed to be the individual who forwarded the correspondence. Petitioner has only supplied a narrative of events surrounding the mailing of the response, signed by himself. A statement from Mrs. Creel is requested to satisfy the requirement under 37 C.F.R. §1.8(b)(3) of a statement which attests "on a personal knowledge basis to the previous timely mailing or transmission."

In the absence of Mrs. Creel's statement, *this petition must be and is* <u>*dismissed*</u> for failure to satisfy the requirements of 37 C.F.R. §1.8.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.[2] Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181".

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

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

[2] 37 C.F.R. §1.181(f)

By hand: Office of Petitions
Four Crystal Plaza, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Petitions Attorney Scott M. Ledford in the Office of Petitions at (703) 306-5593.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

RAMON A. KLITZKE II
KLARQUIST, SPARKMAN, CAMPBELL, LEIGH, &
ONE WORLD TRADE CENTER, SUITE 1600
121 S. W. SALMON STREET
PORTLAND , OR 97204

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AUG 1 5 2001

OFFICE OF PETITIONS

In re Application of:
LOPRESTI, MICHAEL A
Application No. 08/807,372
Filed: 02/27/1997
Attorney Docket No. 1399-257

DECISION DISMISSING PETITION

This is a decision on the April 23, 2001 renewed petition under 37 C.F.R. §1.181.

Application History.

This application was filed on February 27, 1997. While a filing date was granted, the application was lacking a properly executed declaration. Therefore, a notice to file missing parts was mailed to the address of record on June 17, 1997, requesting a properly executed declaration and the $130.00 late filing surcharge required under 37 C.F.R. §1.16(e). A two month extendable period was set for replying. However, no reply was received within that time. Therefore, the application became abandoned on August 18, 1997. Petitioner first filed this petition on February 22, 1999.[1] However, in a decision dated February 23, 2001, that petition was dismissed for failure to meet the requirement of 37 C.F.R. §1.8(b)(3) of a providing a statement made by someone with firsthand knowledge attesting to the timely mailing of the required response to the outstanding office action. A two month deadline was set for replying.

Analysis and Conclusion.

A statement by Ms. Judy S. Creel attesting on a firsthand basis to the timely mailing of the required reply has been supplied with this petition. Accordingly, the requirements of 37 C.F.R. §1.8 have been met and ***this petition is granted***.

The notice of abandonment mailed on January 21, 1999 was mailed in error and is hereby withdrawn. This application will be forwarded to the Office of Initial Patent Examination for review of Applicant's reply.

The new power of attorney has been entered into the record.

---

[1] Although filed under 37 C.F.R. §1.137(a), the petition was treated under 37 C.F.R. §§1.181 and 1.8.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Scott M. Ledford in the Office of Petitions at (703) 306-5593.

Beverly M. Flanagan

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

Paper No. 16

Ann S. Hobbs, Ph.D.
PILLSBURY MADISON & SUTRO LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of Victor Smit and Willem Huppes Serial No. 08/807,506 Filed: February 27, 1997 For: GRADUAL MODIFICATION, SUPER-AGONISTS AND ANTAGONISTS OF SIGNAL PROTEINS AND PEPTIDES	:	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.103(a), filed March 16, 2000, for suspension of action in the instant application.

Applicants request suspension of action because their domestic agent in Holland is currently unable to advise on prosecution of the application due to ill health.

Suspension of Action as delineated in 37 CFR 1.103, will be granted for <u>good and sufficient cause</u> (emphasis added) and for a reasonable time. Applicants' request demonstrates good and sufficient cause. Accordingly, the petition is GRANTED, and action is suspended for a second period of SIX (6) MONTHS from the date of mailing of this letter. In lieu of any future suspension for the current reason, applicants are advised to find an alternative Dutch agent to advise them on the current prosecution.

Upon termination of this suspension, the application will be forwarded to the examiner for appropriate action.

George C. Elliott, for

John Doll,
Director
Technology Center 1600

UNITED STATES
PATENT AND
TRADEMARK OFFICE

MAY - 6 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

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

#28

In re Application of	:
Victor Smit et al	:
Serial No.: 08/807,506	: PETITION DECISION
Filed: February 26, 1997	:
Attorney Docket No.: 7392/71226	:

This letter is in response to applicant's petition under 37 CFR 1.103(a), filed April 12, 2002, seeking suspension of action in this application for a period of three to six months.

The petition fee of $130.00 will be charged to applicants' Deposit Account No 06-1135, as directed.

A review of the file history shows that applicants filed a third CPA Request on April 2, 2002. This request has been treated as a Request for Continued Examination (RCE) in view of the previous filing of a CPA on July 13, 2001, the filing of which precluded the filing of any subsequent CPA requests. An amendment was filed with the CPA request which satisfies the requirements of a RCE filing.

Applicants' request for suspension of action is based on employment of a new Dutch agent who needs time to become familiar with the file and consult with applicants. It is noted that a similar reason for suspension of action was filed on March 16, 2000, and granted based on the foreign attorney's illness. It is also noted that this application has been pending for more than five years and claims priority back almost nine years. Given the extended pendency of this application it is contrary to Office policy to grant a further suspension absent a compelling reason to do so.

Applicants' petition is **DENIED**.

The application will be returned to the examiner for further action not inconsistent with this decision.

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) 305-7230.

Bruce M. Kisliuk
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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RAJIV P. PATEL
FENWICK & WEST LLP
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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OFFICE OF PETITIONS

In re Application of	:	
Green, David	:	
Patent No. 6,072,933	:	ON PETITION
Application No. 08/807,532	:	
Filed: February 28, 1997	:	
Issued: June 6, 2000		
Attorney Docket No. 22728-06523		

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

The petition is **GRANTED**.

The patent issued June 6, 2000. The last day of the grace period for paying the 3.5-year maintenance fee was June 6, 2004. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. Also, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Petitioner should note that submission of a power of attorney and/or a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted to the Maintenance Fee Division.

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES 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. 61

COPY MAILED

AUG 27 2003

OFFICE OF PETITIONS

NIXON PEABODY
8180 GREENSBORO DRIVE
SUITE 800
McLEAN, VA 22102

In re Application of :
Hisashi Ohtani et al :
Application No. 08/807,737 : ON PETITION
Filed: February 27, 1997 :
Attorney Docket No. 0756-1638 :

This is a decision on the petition, filed August 26, 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 July 8, 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 Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

will be forwarded to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the currently filed Amendment and IDS.

Wan Laymon

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

cc: NIXON PEABODY
401 9TH STREET N.W.
SUITE 900
WASHINGTON, DC 20004-2128

UNITED STATES 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. 5844152
Issue Date: December 1,1998
Application No. 08808210
Filed: February 28,1997
Attorney Docket No. 16.10385

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

This is a decision on the electronic petition, filed January 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5844152	1998-12-01	08808210	1997-02-28	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Patrice L Barnes/	Date (YYYY-MM-DD)	2007-01-24
Name	Patrice L Barnes, CFO/Thompson Equipment Co Inc		

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

July 10, 2000

Kirschstein, Ottinger, Isreal & Schiffmiller
Attorneys for Applicants
489 Fifth Avenue
New York, NY 10017-6105

In re Application of
Malcolm Alexander Swinbanks, et al
Application No. 08/808,239
Filed: February 28, 1997
Attorney Docket No. P/60857/VSEL

DECISION ON PETITION

This is a decision on your correspondence filed on February 22, 2000, and treated as a petition to withdraw the holding of abandonment in the above-mentioned application.

The petition is granted.

This application was held abandoned for failure to timely respond to the Office action mailed June 11, 1997. The evidence presented -certificate of mailing-shows that a response was mailed to the Patent and Trademark Office on April 28, 1997.

In view of the above it is clear that you have complied with requirements for the initial processing of your application. You will be receiving a filing receipt within the next two weeks, and your case will be forwarded on to the technology center for further processing.

Betty L. Robinson
Office Of Initial Patent Examination

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)
6009484	1999-12-28	08/808,329	1997-02-28	6606

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	/AdamABennett/	Date (YYYY-MM-DD)	2008-12-16
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

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. 6009484
Issue Date: December 28,1999
Application No. 08808329
Filed: February 28,1997
Attorney Docket No. 6606

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

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

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)
5,919,499	1999-07-06	08/808,477	1997-03-03	LAWLEY.001A

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	/dsirea hernandez/	Date (YYYY-MM-DD)	2008-04-15
Name	Desirea Hernandez		
Enter Reel and Frame Number		Remove	
Reel Number	009796	Frame Number	0863
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5919499
Issue Date: July 6,1999
Application No. 08808477
Filed: March 3,1997
Attorney Docket No. LAWLEY.001A

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

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

5/12/09

Patent No. :7531353
Ser. No. :08/808827
Inventor(s) :Gunzburg et al.
Issued : 5/12/08
Title : NON SELF-INACTIVATING, EXPRESSION TARGETED RETROVIRAL VECTORS
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(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

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

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Aries A. Taylor
JENKINS WILSON TAYLOR & HUNT, P.A.
SUITE 1200
3100 TOWER BOULEVARD
DURHAM, NC 27703

HR

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

JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

COPY MAILED
FEB 25 2010

In re Patent of Gunzburg et al.	:	
Patent No. 7,531,353	:	
Issue Date: May 12, 2009	:	Letter
Application No. 08/808,827	:	
Filing Date: February 28, 1997	:	
Attorney Docket No. 1406/194	:	

This is a letter in response to the paper filed May 8, 2009, which is being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data on the front page of the patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

> 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.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) A request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) The assignment was submitted for recordation prior to issuance of the patent, and
(3) A request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Patentees have met the requirements set forth above. Therefore, the request is granted.

The Certificates of Correction Branch will issue the requested certificate of correction in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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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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In re Patent No. 5922074
Issue Date: July 13,1999
Application No. 08808846
Filed: February 28,1997
Attorney Docket No. 2290-1

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

This is a decision on the electronic petition, filed September 5,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 5,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5922074	1999-07-13	08808846	1997-02-28	0081004.155US1

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	/Eric L. Prahl/	Date (YYYY-MM-DD)	2007-09-05
Name	Eric L. Prahl	Registration Number	32590

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
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WASHINGTON, D.C. 20231
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Paper No. 25

JUL 24 2001

HILL, STEADMAN & SIMPSON
85th Floor Sears Tower
Chicago, IL 60606

In re Application of:	:	
Nakamura *et al.*	:	DECISION TO WITHDRAW
Application No. 08/809,463	:	HOLDING
Filed: July 18, 1997	:	OF ABANDONMENT
Attorney Docket No. 09794353-0005	:	

This is a decision on the petition filed April 5, 2001, and supplemented on July 19, 2001, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The petition is **granted**.

The application was held abandoned because the period for seeking court review of the decision rendered by the Board of Patent Appeals and Interferences (BPAI) on November 28, 2000, had expired. A Notice of Abandonment was mailed on March 1, 2001.

Petitioner asserts that on January 29, 2001, a Request for Rehearing was timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of a Request for Rehearing bearing a certificate under 37 CFR 1.8(a) showing a date of deposit of January 29, 2001, and a statement which attests to the previous timely mailing of the Request for Rehearing.

A review of the application file record reveals that the above-identified Request for Rehearing is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted

correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition meets the conditions of 37 CFR 1.8(b) to establish the previous filing of the Request for Rehearing.

The period for filing the Request for Rehearing expired on January 28, 2001, two months from the date of the decision rendered by the BPAI. As January 28, 2001, was a Sunday, the Request for Rehearing filed January 29, 2001, is considered to be timely pursuant to 37 C.F.R. 1.7.

For the above stated reasons, the petition is **granted.** The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The copy of the Request for Rehearing submitted with the petition on March 1, 2001, is hereby accepted since the request originally submitted was apparently lost.

The application file is being forwarded to the Board of Patent Appeals and Interferences for consideration of the Request for Rehearing.

Inquiries regarding this decision should be directed to Ed Glick at (703) 308-4858.

Rolf Hille, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

MAR 2001

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

Dr. Jim Considine
Exten Industries
9625 Black Mountain Road, Suite 218
San Diego, CA 92126-4564

In re Application of	:	
MYERS, et al.	:	DECISION ON PETITION
Application No.: 08/809,677	:	
PCT No.: PCT/US94/10935	:	
Int. Filing Date: 27 September 1994	:	UNDER 37 CFR 1.137(b)
Priority Date: 27 September 1994	:	
Attorney Docket No.: 07354/004001	:	
For: ARTIFICIAL LIVER APPARATUS AND METHOD	:	

This is a decision on applicant's "PETITION FOR UNDER 37 CFR 1.137(b) FOR REVIVAL OF AN APPLICATION FOR ABANDONED UNINTENTIONALLY" filed in the United States Patent and Trademark Office (USPTO) on 01 September 2000. The required small entity petition fee of $605.00 (37 CFR 1.17(m)) has been included.

BACKGROUND

On 27 September 1994, applicant filed international application PCT/US94/10935. A Demand for international preliminary examination, in which the United States was elected, was filed on 25 April 1996, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 27 March 1997.

On 27 March 1997, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia:* the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a copy of the International Application as required by 35 U.S.C. 371(c)(2). An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not filed.

On 14 August 1997, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors. In compliance with 37 CFR 1.497 [illegible]

[illegible] the earliest priority date [illegible] CFR [illegible]

On 21 July 1998, applicant was mailed a "NOTIFICATION OF ABANDONMENT" [illegible] PCT/DO/EO/905 [illegible] 1997 "NOTIFICATION OF

MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) within the time period set therein.

On 19 October 1998, applicant filed a "PETITION UNDER 37 CFR 1.137(a) TO REVIVE UNAVOIDABLY ABANDONED APPLICATION."

On 08 March 1999, counsel from the law firm of Fish and Richardson filed a Request to Withdraw as attorneys.

On 14 May 1999, applicant was mailed a decision granting applicant's 19 October 1999 petition to revive and withdrawal of attorney. Applicant was informed that the application was being forwarded to the National Stage Processing Branch of the International Division for a re-mailing of the Notification of Missing Requirements to the new correspondence address indicated in the 08 March 1999 Request to Withdraw as attorneys.

On 30 June 1999, was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date and providing a surcharge of $130.00 for providing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. (37 CFR 1.492(e).

On 12 July 1999, applicant responded by filing a copy of the power of attorney as filed on 16 March 1998, a copy of revocation of previous powers of attorney and grant of new power of attorney as submitted on 06 July 1999, a check in the amount of $240.00 and a petition for a one-month extension of time.

On 24 September 1999, a "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) indicating that an oath or declaration of inventor(s) in compliance with 37 CFR 1.497(a) and (b) was still needed. This communication was mailed to applicants former attorney notwithstanding the change of correspondence address indicated in the 14 May 1999 decision.

On 27 March 2000, applicant filed a status letter inquiring into the present status of the subject application.

On 12 June 2000, was mailed a "NOTIFICATION OF ABANDONMENT" (Form

DISCUSSION

I. Petition under 37 CFR 1.137(b)

Applicant's petition is **DISMISSED as moot**. The above-captioned application is not abandoned as the "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) was mailed to the wrong address.

II. Revocation of Previous Power of Attorney and Appointment of New Attorney

The present decision and future communications will be mailed to Dr. Considine as per the previous decision mailed 14 May 1999. The "Revocation of Previous Power of Attorney and Grant of New Power of Attorney" filed 12 July 1999 pursuant to 37 CFR 3.71 is ineffective because the purported assignment has not furnished sufficient proof that "Xenogenics Industries" owns the entire interest. The recorded assignment refers to "Exten Industries" and has only been signed by one of the three named inventors.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is **DISMISSED as moot.**

The NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 12 June 2000 is hereby **VACATED**.

The petition fee of $605.00 will be credited to Deposit Account No.: 02-4070.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing in accordance with this decision, namely remailing of the "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) originally mailed on 24 September 1999 to the correct correspondence address of **Dr. Jim Considine, Exten Industries, 9625 Black Mountain Road, Suite 218 San Diego, CA 92126-4564** as indicated in the 14 May 1999 decision.

Derek A. Putonen

Fax: (703) 308-6459

AUG 15 2001

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

Dr. Jim Considine
Exten Industries
9625 Black Mountain Road, Suite 218
San Diego, CA 92126-4564

In re Application of	:	
MYERS, et al.	:	
Application No.: 08/809,677	:	DECISION ON PETITION
PCT No.: PCT/US94/10935	:	
Int. Filing Date: 27 September 1994	:	UNDER 37 CFR 1.47(b)
Priority Date: 27 September 1994	:	
Attorney Docket No.: 07354/004001	:	
For: ARTIFICIAL LIVER APPARATUS AND	:	
METHOD	:	

This is a decision on applicant's "Petition Under 37 C.F.R. §1.47" filed in the United States Patent and Trademark Office (USPTO) on 04 June 2001 and again on 17 July 2001. The petition fee of $130.00 (37 CFR 1.17(h)) has been included.

BACKGROUND

On 07 March 2001, applicant was mailed a decision in which applicant's petition under 37 CFR 1.137(b) was dismissed as moot as a previously mailed "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) was mailed to the wrong address. The NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed 12 June 2000 was hereby **VACATED**.

On 30 April 2001, applicant was mailed a "Notification of a Defective Response" informing applicant of the need to file an executed declaration in compliance with 37 CFR 1.497. Applicant was given one month to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 04 June 2001, applicant responded with the present petition under 37 CFR 1.47(b).

DISCUSSION

cannot be reached after diligent effort; [illegible] statement of the last known address [illegible] signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; [illegible] action is necessary to preserve the rights of the parties or to prevent

irreparable damages. With the filing of the present petition and papers, applicant has satisfied items (1) and (3).

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature." Applicants have not shown that a *bona fide* attempt was made to present the application papers, including the specification, claims, and drawings to inventors Myers, Li and Demetriou. The mere anticipation that the inventors will refuse to execute an oath or declaration in the future is insufficient. In order to proceed pursuant to 37 CFR 1.47(b) applicant must show an actual refusal by the non-signing inventor to execute the declaration or silence on the part of the non-signing inventor after a complete set of application papers have been presented to him.

As to Item (4), applicant did not provide an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventors.

Regarding Items (5) and (6), applicant has failed to show proof of proprietary interest in the application or that proceeding without an executed declaration from Drs. Myers, Li and Demetriou is necessary to preserve the rights of the parties or to prevent irreparable damages. As discussed in the decision mailed 07 March 2001, the purported assignment has not furnished sufficient proof that "Xenogenics Industries" owns the entire interest. The recorded assignment refers to "Exten Industries" and has only been signed by one of the three named inventors, Dr. Myers. The assignment agreement signed on 26 October 1992 by Myers to CSMC does not appear to be directed to the present invention. Also, Dr. Li's employment agreement does not state that he is obligated to assign his invention to Xenogenics. In paragraph 2.13 references are made to an appendix B which is not attached. Lastly, Mr. Demetriou has signed an assignment to Exten, however, this execution occurred later than the assignment from Exten to Xenogenics.

For the above reasons, it would not be appropriate to accept this application without the signatures of Drs. Myers, Li and Demetriou.

CONCLUSION

The petition filed under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

[illegible] the merits of this petition is desired, a proper response must be filed [illegible]

petition fee is required.

Should status under 37 CFR 1.47(b) not be successfully completed, the international [illegible] be viewed as having become abandoned with respect to the United States of

America at midnight at the expiration of the time period set in this decision or as extended by any extension fee timely paid under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.

Leonard Smith
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

DEC 2 0 2001

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

Exten Industries
425 W. Fifth Avenue, Suite 201
Escondido, CA 92025

In re Application of	:	
MYERS, et al.	:	
Application No.: 08/809,677	:	DECISION ON RENEWED
PCT No.: PCT/US94/10935	:	
Int. Filing Date: 27 September 1994	:	PETITION UNDER
Priority Date: 27 September 1994	:	
Attorney Docket No.: 07354/004001	:	37 CFR 1.47(b)
For: ARTIFICIAL LIVER APPARATUS AND	:	
METHOD	:	

This is a decision on applicant's "Supplemented and Restated Petition Under 37 C.F.R. §1.47" filed in the United States Patent and Trademark Office (USPTO) on 24 September 2001.

BACKGROUND

On 15 August 2001, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b). Applicant was afforded two months to file a response.

On 24 September 2001, applicant responded with the present renewed petition under 37 CFR 1.47(b).

On 23 October 2001, applicant filed a combined declaration and power of attorney executed by Gregory F. Szabo, president of Xenogenics Corporation.

DISCUSSION

As discussed in the decision mailed 15 August 2001, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant

now satisfied item (6) above

As to item (2), in the decision mailed 15 August 2001 applicant was advised that, "in order to proceed pursuant to 37 CFR 1.47(b) applicant must show an actual refusal by the non-signing inventor to execute the declaration or silence on the part of the non-signing inventor after a complete set of application papers have been presented to him." It appears from the renewed petition and supporting exhibits that non-signing inventors Li and Myers were presented merely with a cover letter and declaration for signing. In addition, while applicant claims that Drs. Li and Myers have refused to execute an oath or declaration, applicant has not provided a statement from an individual with firsthand knowledge of the alleged refusals of Li and Myers. As to inventor Demetriou, applicant has satisfied this item as applicant has provided proof in the form of a letter from Dr. Demetriou's counsel that he will not sign documents related to the present application; moreover, as indicated in Exhibit A, a copy of the application and declaration was sent to Dr. Demetriou. As detailed above, applicant has not satisfied item (2) as to inventors Li and Myers.

Regarding item (4), the submitted declaration fails to comply with 37 CFR 1.497(b) in that, 37 CFR 1.497(b)(2) states that in cases where the person making the oath or declaration is not the inventor, "[T]he oath or declaration shall state the relationship of the person to the inventor..." The present declaration does not contain such a statement.

As to item (5), applicant has failed to show proof of proprietary interest in the application. Section 409.03(f) details the procedures for providing proof of proprietary interest when proceeding under 37 CFR 1.47(b):

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).
>
> When an inventor has agreed in writing to assign an invention described in an application [illegible] assignment should be submitted. If
>
> an employment agreement where an employee [illegible]
> or her employer (37 CFR 1.47(b) applicant) all inventions made during employment

> When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

A) Regarding inventor Li, the submitted assignment (Exhibit I) is unsigned. Petitioner's assertion that the "only reason for not signing the assignment was that he thought that he was being asked to sign not only on his own behalf but also on behalf of his co-inventors, Drs. Myers and Demetriou" is speculation. As to Dr. Li's employment agreement (Exhibit H), applicant has failed to provide a statement of a person having firsthand knowledge of the facts that the invention was made by Dr. Li while employed by Xenogenex. In addition, contrary to petitioner's assertion, the agreement does not discuss any obligation to "sign a separate assignment document for the invention." Similarly, regarding applicant's discussion of California employment law, an applicant proceeding under 37 CFR 1.47(b) who is attempting to show a proprietary interest obtained other than by assignment or agreement to assign may demonstrate such status by submission of an appropriate legal memorandum. (MPEP Section 409.03(f)). In the present case applicant has cited specific case law but has not provided a legal memorandum prepared and signed by an attorney indicated as familiar with the law of California as required and based on the requisite affidavit by one with firsthand knowledge.

B) Regarding inventor Myers, the submitted assignment (Exhibit D) does not relate to the present invention. As to applicant's argument that an officer of a corporation owes to that corporation the assignment of all technical developments made by the officer in the course of his employment and material to the business of the corporation, applicant has not provided a legal memorandum prepared and signed by an attorney at law familiar with the law of California as required. (See MPEP Section 409.03(f) and discussion above.)

Thus, Xenogenics (the 1.47(b) applicant) has failed to establish proprietary interest in the present application.

For the above reasons, it would not be appropriate to accept this application without the signatures of Drs. Myers, Li and Demetriou.

CONCLUSION

The petition filed under 37 CFR 1.47(b) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mailing date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Should status under 37 CFR 1.47(b) not be successfully completed, the international application will be viewed as having become abandoned with respect to the United States of America at midnight at the expiration of the time period set in this decision or as extended by any extension fee timely paid under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.

Boris Milef
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of	Assignee: Xenogenics Corporation (by mesne assignments)
EDWARD F. MYERS ET AL.	
U.S. Serial No.: 08/809,677	FOR: ARTIFICIAL LIVER APPARATUS AND METHOD
Int'l. Appln. No.: PCT/US94/10935	Group Art Unit: PCT Office
Int'l. Filing Date: 27 September 1994	

RESPONSE TO DECISION ON RENEWED PETITION UNDER 37 C.F.R. § 1.47(b) AND REQUEST FOR RECONSIDERATION OF SAID DECISION

Hon. Commissioner for Patents
Washington, D.C. 20231

Attention: Derek Putonen
Petition Attorney

Dear Sir:

This Response and Request is filed in response to the Decision dated December 20, 2001 in this application. For the reasons set forth below, Petitioner Xenogenics respectfully requests that the information and documents submitted herewith be entered

I hereby certify that this correspondence is being mailed via United States Postal Service Express Mail, receipt no. EL914123097US in an envelope addressed to: U.S. Patent and Trademark Office, P.O. Box 2327, Arlington, VA 22202 on:

February 19, 2002
(Mailing Date)

Melissa J. Leffler
(Typed Name)

(Signature)

February 19, 2002
(Date of Signature)

into the file of this application, that the Decision be reconsidered, and that the Petition Attorney rule that all requirements have been fulfilled to enable Petitioner to proceed with this application in the Patent and Trademark Office (PTO) under the provisions of 37 C.F.R. § 1.47(b) [hereinafter referred to herein as "Rule 47"], all inventors having refused to sign the Declaration documents originally called for by the Petition Examiner.

In the subject Decision, the Petition Examiner ruled that all requirements pertaining to Rule 47 have been met by Petitioner with the exception of:

a. Statements of first person evidence that Drs. Edward F. Myers and Albert P. Li have each been presented with a complete set of application documents, that they have been requested to sign those documents as named co-inventors on this present application, and that they (being aware of the nature of the documents) have expressly refused to sign such documents; and

b. A legal opinion by a qualified attorney regarding the legal obligations of Drs. Myers and Li to assign all of their rights to the claimed invention and to the present (and all other) patent application(s) related to such invention based on their former positions as officers of one or more of Petitioner's predecessors in interest and/ or on the basis of any written document amounting to an assignment of all such rights.

It is respectfully submitted that these requirements have been met by this Response and Request and by the following documents submitted herewith:

1. Declaration of Gregory F. Szabo;
2. Executed Declaration in the name of co-Inventor Edward F. Myers
3. Legal Opinion Provided by James W. McClain.

Specifically, in Mr. Szabo's Declaration his direct solicitation of Dr. Li's signature on a complete set of application documents and Dr. Li's refusal to sign are documented. Dr,. [illegible] that the signature issue as to him is now resolved. In

and both his and Dr. Myers' obligations to assign their patent rights to predecessors of Petitioner are described and their legal effects under federal and California law are analyzed. Mr. McClain, a qualified California and Colorado attorney and a PTO Registrant states his conclusion that Drs. Li and Myers, through his own actions and corporate position and through the actions of the putative assignees, did have such legal obligations to assign and did in fact make such assignments, and that the assignees thereof did legally acquire all of Drs. Li's and Myers' rights to this application and the invention described therein, as well as to all other counterpart, predecessor and progeny applications, both domestic and foreign, and that such rights could thereafter be assigned, directly or by mesne assignments, to Petitioner, as previously documented in the file of this application, through the Renewed Petition Under 37 C.F.R. § 1.47(b) and otherwise.

Mr. McClain's opinion also addresses the legal effect of the October 1992 executed by Dr. Myers to Cedars-Sinai Medical Center and concludes that under case law and statute it must be considered to be a complete assignment of all of Dr. Myers' rights, notwithstanding a decades-old isolated decision of the Commissioner of Patents which suggests otherwise.

FEES

It is not believed that any fees are due with respect to the submission of this Response and Request. However, should any such fees be due, the Patent and Trademark Office is authorized to charge all such fees to Deposit Account No. 02-4070.

CONCLUSION

It is therefore respectfully submitted that all requirements of 37 C.F.R. § 1.47(b) [illegible] that Petitioner is therefore entitled to proceed with prosecution

Letters Patent thereon, and a ruling by the Petition Attorney to that effect is earnestly solicited.

Should the Petition Attorney believe that an affirmative ruling in this matter might be expedited by further discussion of any issues, a telephone call to the undersigned attorney, collect, at the telephone number listed below, is cordially invited.

Respectfully submitted,

Dated: February 19, 2002

By: _____
James W. McClain
Attorney for Petitioner
Registration No. 24,536

BROWN MARTIN HALLER & McCLAIN LLP
1660 Union Street
San Diego, California 92101

Telephone: (619) 238-0999
Facsimile: (619) 238-0062
Docket No.: 7728-PA01

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PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of	)	FOR: ARTIFICIAL LIVER APPARATUS AND METHOD
EDWARD F. MYERS ET AL.	)	
Serial No.: 08/809,677	)	Group Art Unit: PCT Legal Office
Int'l. Filing Date: September 27, 1994	)	

LEGAL OPINION PROVIDED BY
JAMES W. McCLAIN, ATTORNEY AT LAW

I, JAMES W. McCLAIN, hereby declare and state that:

1. I am an attorney licensed by the States of California and Colorado, and am currently in private law practice in San Diego, California with the law firm of Brown Martin Haller & McClain, LLP. My license from California dates from 1967 and my license from Colorado dates from 1973.

2. I have been registered with the U.S. Patent and Trademark Office (PTO) as a Patent Attorney under Registration No. 24,536 since 1967.

3. I am patent counsel for Petitioner Xenogenics, Inc.

4. I am thoroughly familiar with the subject patent application and the history of the prosecution of this case and with the parties who at one time or another have had a proprietary and/or inventorship interest, real or potential, in this application and the invention disclosed and claimed therein. I believe that I am entirely qualified to opine on all legal issues related to this application, both under federal patent law and relevant California state law.

5. In the Decision on Renewed Petition under 37 C.F.R. § 1.47(b) issued by Petitions Attorney Derek A. Putonen of the PTO on December 20, 2001, Mr. Putonen identified [illegible] calling for support from a legal opinion by an

in response to that Decision.

Matter of Albert P. Li

6. A named co-inventor in this case is Albert P. Li, Ph.D. Dr. Li has heretofore failed to sign the required application papers as an inventor. As is indicated in a Declaration of Gregory F. Szabo submitted to the PTO simultaneously herewith, Dr. Li continues to refuse to sign, notwithstanding a direct proffer of a set of papers for execution on February 6,. 2002, by Mr. Szabo.

7. In order for prosecution of this application to proceed in the absence of Dr. Li's signature under 37 C.F.R. § 1.47(b) [hereinafter referred to for brevity as "Rule 47"], it must be shown that Petitioner Xenogenics has previously acquired Dr. Li's rights in and to the claimed invention and the application by assignment or by operation of law.

8. It is Xenogenics' contention, set forth in the Renewed Petition, that it is the successor in interest to a predecessor company to which Dr. Li had a legal obligation under California state law to assign all of such rights, and that therefore Xenogenics is now the possessor of Dr. Li's rights and can properly proceed forward with this application under Rule 47. The legal position of Xenogenics is set forth below.

9. Copies of all of the documents mentioned herein pertaining to Petitioner's acquisition of Dr. Li's rights have been made of record in this application and are included within Exhibit I of the Renewed Petition.

10. Dr. Li became an officer of Petitioner's predecessor, Xenogenex, on January 11, 1994, having the title of Chief Scientific Officer. It is my opinion that acceptance and retention of that position as an officer legally obligated him to assign to the company all inventions related to the company's business with which he was involved during his tenure [illegible] of the present invention was specifically identified in his

Agreement copy in Exhibit I having been redacted to exclude non-relevant material), and there is no disagreement that the present invention was fully within the scope of his employment as a Xenogenex officer.

11. At the time of the Agreement, Dr. Li resided in Missouri and Xenogenex was located in California. California law is applicable to an officer of a corporation having its place of business in California for matters related to the corporation, notwithstanding that the officer may have a personal residence in another state.

12. In the Agreement, Dr. Li agreed to sign a separate assignment document for the invention, which was sent to him with a cover letter. Dr. Li returned the assignment unsigned but indicated on the cover letter that his only reason for not signing the assignment was that he thought that he was being asked to sign not only on his own behalf but also on behalf of his two co-inventors, Drs. Myers and Demetriou. He did not, however, object to signing on his own behalf. Subsequently Dr. Li was advised that the assignment that he had been sent was in counterpart form and that his signature would be only on his own behalf, Drs. Myers and Demetriou having been provided with their own counterpart assignment documents. However, thereafter (and in violation of his employment status and the signed Agreement) Dr. Li took a contrary position, refused to cooperate with Petitioner's predecessor and would not sign the assignment on his own behalf.

12. The fact that Dr. Li's assignment was ultimately not signed does not negate Petitioner's rights under Rule 47. The evidence presented indicates in his own hand that, in compliance with his Agreement, he would have executed that assignment of his right, title and interest in and to the invention and application had he not mistakenly thought that he was being asked to sign not just for himself but also on behalf of Drs. Myers and Demetriou. By the time that his misunderstanding had been corrected, however, he had [illegible] and thereafter refused to sign the assignment.

13. The Agreement itself did not address the issue of ownership of technical developments by Dr. Li while an officer of Xenogenex. Neither was the Assignment ever executed. In the absence of an Assignment and since the Agreement is silent on this issue, the statutory and case law applies. It is well settled under federal and state law (including California law) that an officer of a corporation owes to that corporation the assignment of all technical developments made by the officer in the course of his employment and material to the business of the corporation; *Teets v. Chromalloy Gas Turbine Corp.*, 83 F.3d 403, 38 U.S.P.Q.2d 1695 (Fed.Cir., 1996); *Pursche v. Atlas Scraper & Engrg. Co.*, 300 F.2d 467, 132 U.S.P.Q. 104 (9th Cir., 1961); *Blum v. Commission of I.R.S.*, 183 F.2d 281, 86 U.S.P.Q. 118 (3rd Cir., 1950); *Kennedy v. Wright*, 676 F.Supp. 888, 6 U.S.P.Q.2d (C.D. Ill., 1988); *Moore v. American Barmag Corp.*, 693 F.Supp. 399, 9 U.S.P.Q.2d 1904 (W.D. N.C., 1988); and *Banner Metals, Inc. v. Lockwood*, 125 U.S.P.Q. 29, 3 Cal.Rptr. 421 (Calif. Ct. App., 1960). With respect of officers and employees generally, and their obligations to their employers under California law, see CALIFORNIA LABOR CODE §§ 2860 and 2863 (West Publ. Co.: 2000). Clearly any technical developments -- including the present invention -- made by Dr. Li during the course of his employment therefore belonged to his employer, Petitioner's predecessor Xenogenex.

14. Such obligations were not terminated when Dr. Li was subsequently no longer a Xenogenex officer. Obligations incurred during tenure as an office do not terminate upon cessation of the officer status unless expressly terminated by mutual consent of the officer and the employer. That Dr. Li would not thereafter incur any new obligations to Xenogenex did not affect his previously incurred obligations as an officer, including specifically his obligation to turn over all rights to this invention to Xenogenex, since all such rights had been created by his work during his tenure at Xenogenex.

[illegible] contribution to the invention during his tenure with Xenogenex

and from the fact that he initially was willing to sign an assignment, except for his misunderstanding as to the counterpart nature of the assignment document. The fact that he subsequently became (and remains) antagonistic to Xenogenex and its successors for other reasons does not negate his admission as to the work accomplished during his employment. No third party corroboration is required when the inventor himself admits that the work was done during the course of his employment.

16. It is therefore my legal opinion that, by virtue of his position as an officer of Xenogenex, during which time he made all of the contributions to the invention which resulted in his becoming a co-inventor thereof, Dr. Li by operation of law effectively transferred all of his rights to the present invention and this application and all of the application's predecessors and progeny to Xenogenex, from which by mesne assignments such rights are today the possession entirely and solely of Petitioner.

Edward F. Myers

17. A closely related analysis as for Dr. Li is applicable to Edward F. Myers, Ph.D. While Dr. Myers has now signed the required Declaration as an inventor, there remains an issue regarding his obligation to assign to one or more predecessors of Petitioner.

18. It is my legal conclusion, for the reasons set forth below, that Dr. Myers fully, validly and completely assigned all of his patent rights to a predecessor in interest of Petitioner, Cedars-Sinai Medical Center (CSMC), in Los Angeles, California in an assignment of the invention and all applications related thereto to CSMC on October 26, 1992. This Assignment is of record at the PTO as Exhibit D or the Renewed Petition. Also named as the original inventors were Drs. Donald V. Cramer, Leonard Makowka and Achilles A. Demetriou. (Subsequently Drs. Cramer and Makowka were dropped as named inventors [illegible] to rise to the level of according inventorship

Myers, CSMC and Exten all were (and still are) domiciled in California and the Assignment was executed and thereupon took effect in California. Please of contracting, place of performance and location of the parties are the defining factors in determining the applicable law for interpretation of a contract; Witkin, SUMMARY OF CALIFORNIA LAW (9th ed.), §§ 46-50, pp. 86-88 (2001); CAL. CIV. CODE § 1646.

19. At the same time, as is evidenced by Exhibits H and I of the Renewed Petition (of record) Dr. Myers was also president of Xenogenex, where he worked with Dr. Li on the invention. On the same legal grounds as discussed above for Dr. Li, by virtue of his position as an officer of Xenogenex Dr. Myers' rights belonged to Xenogenex. Indeed, the legal grounds regarding Dr. Myers are even more compelling than for Dr. Li, since Dr. Myers was the company's president.

20. In the Decision the statement is made that an assignment of an application "and any reissue, division or continuation" thereof does not convey the rights to a "continuation-in-part," citing *In re Gray*, 115 U.S.P.Q. 80 (Comm. Pats., 1956) and M.P.E.P. § 409.03(f). It is reasonable to question whether this isolated, half-century old in-house PTO ruling is viable today. I note that no court nor even the Commissioner has ever cited that ruling in any subsequent proceeding. In fact, subsequent cases have been contrary, ignoring that ruling. For instance, in *Beech Aircraft Corp. v. EDO Corp.*, 26 U.S.P.Q.2d 1572, 1581, 990 F.2d 1237 (Fed.Cir., 1993), the court spoke of an assignment as being a complete conveyances of all patent rights of the assignor notwithstanding that the generic word "continuations" was used without the sub-set term "continuations-in-part."

21. Even if some validity remains for *Gray*, it is clear that *Gray* is not applicable here. *Gray* arose in the context of an inventor who refused to sign the patent application to which the assignment pertained, and the Gray decision separates "continuation" from [illegible] facts. That is not the case here. Dr. Myers did

pertained; nor has he refused to sign it now. Further, as the president of Xenogenex he would have had every incentive to insure that the assignment was complete and adequate since his own company was now the owner and beneficiary. It is evident that the inventors intended to convey to CSMC all of their rights, and that such complete assignment of rights was conveyed on to Xenogenex. The omission of the term "continuation-in-part" was an scrivener's oversight which would have been remedied immediately had CSMC, Xenogenex or any of the inventors noticed it, and the court will give effect to the belief of the parties in the completeness of the contract; *Mills v. Schulba*, 95 Cal.App.2d 559 (Cal. Ct. App., 1950) [identification of one piece of property inadvertently omitted by attorney from multi-property land agreement].

22. Nor can Dr. Myers now contend that the assignment was deficient in the omission of the continuation-in-part term, since the doctrine of assignor estoppel prohibits an assignor from denigrating his own assignment at a later date. Neither can the PTO under the guise of *Gray* assert a deficiency on the inventor's behalf, since a third party cannot assert a right on behalf of an original party that the original party did not have.

23. Further, it is significant that the PTO's interest in differentiation between continuations and continuations-in-part is primarily relevant only for the purpose of determining filing dates and statutory bars under 35 U.S.C. §§ 102 and 103 for the various claimed aspects of an invention. Since the PTO considers any transfer of title, in whole or in part, to be an assignment (37 C.F.R. § 3.1) and recordable as "affecting title to applications" [37 C.F.R. § 3.11(a)], it has essentially no interest in the degree of assignment.

24. Finally, the single Commissioner's ruling does not overcome the long-standing and widely recognized state contract law with respect to the interpretation of contacts (which an assignment is). It is well settled that a contact (assignment) is to be interpreted in a

Witkin, *supra*, § 686; CAL. CIV. CODE § 1641. It is also settled that where there are subsequent activities by the parties which are consistent with a specific interpretation of the agreement, those activities can be referred to for the purpose of determining the parties' intent; Witkin, *supra*, § 688; CAL. CODE OF CIV. PROC. § 1860; *Wachs v. Wachs*, 11 Cal.2d 322, 79 P.2d 1085 (1938). In this case it is evident that Dr. Myers, CSMC and Exten all conducted themselves after October 26, 1992, consistent with a belief on all of their parts that the Assignment was complete as to conveyance of *all* domestic and foreign patent rights of Dr. Myers.

25. Therefore, I conclude that upon consideration of all factors related to the parties and the statutory and case law, the isolated and intra-PTO *Gray* ruling in its specific fact situation does not offset the legal doctrines (defined by case law and statute[1]) that dictate the conclusion that the 1992 Assignment signed by Dr. Myers was intended to, and did, convey *all* of Dr. Myers' patent rights, including rights to future "continuation-in-part" applications, to CSMC, from which by mesne assignments they are today in the possession of Petitioner.

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To the extent that such is appropriate in view of the legal opinion nature of this paper, the following statement made a part of this paper:

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: February 15, 2002

Signed: _____

James W. McClain
Attorney at Law
PTO Reg. No. 24,536

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PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of	)	FOR: ARTIFICIAL LIVER APPARATUS AND METHOD
EDWARD F. MYERS ET AL.	)	
Serial No.: 08/809,677	)	Group Art Unit: PCT Legal Office
Int'l. Filing Date: September 27, 1994	)	

DECLARATION OF GREGORY F. SZABO

I, GREGORY F. SZABO, hereby declare and state that:

1. I am the President of the owner of the present application, Xenogenics, Inc.

2. I am personally acquainted with Albert P. Li, Ph.D. I have been aware that Dr. Li is currently employed by a corporation having a place of business in Baltimore, Maryland.

3. I am also aware that Dr. Li is a co-inventor named in the present patent application, and that there is an issue with respect to signature of Dr. Li as a co-inventor. I have been advised by my patent counsel that if a Declaration in proper form would be currently executed by Dr. Li and submitted in this application, this issue could be resolved. I have also been advised by counsel that the patent law defines procedures for continued prosecution of this application should Dr. Li decline to execute such a Declaration.

4. To the end of seeking resolution of this issue, I personally met with Dr. Li at his office in Baltimore on February 6, 2002. I offered Dr. Li a complete set of application papers, including a copy of the application and drawings, and a Declaration completed in proper form and with all relevant information, excepting only Dr. Li's signature. I requested that he read the papers and sign the Declaration as a named co-inventor. Dr. Li indicated to me that he understood what the papers were and that he was a named co-inventor, but he stated that he would not sign the Declaration. I thereafter left Dr. Li's office, taking with

Achilles A. Demetriou, and that the signature of Dr. Myers is also at issue. It is my understanding that efforts are currently being made to obtain Dr. Myers' signature. This Declaration is not intended to address matters related to Dr. Myers.

This constitutes my statement.

****

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: February 15, 2002 Signed: _____
Gregory F. Szabo

04 JUN 2002

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

James W. McClain
Brown, Martin, Haller & McClain
1660 Union Street
San Diego, CA 92101

In re Application of	:	
MYERS, et al.	:	
Application No.: 08/809,677	:	DECISION ON PETITION
PCT No.: PCT/US94/10935	:	
Int. Filing Date: 27 September 1994	:	UNDER 37 CFR 1.47(a)
Priority Date: 27 September 1994	:	
Attorney Docket No.: 07354/004001	:	
For: ARTIFICIAL LIVER APPARATUS AND	:	
METHOD	:	

This is a decision on applicant's "Response to Decision on Renewed Petition Under 37 C.F.R. §1.47(b) and Request For Reconsideration of Said Decision" filed in the United States Patent and Trademark Office (USPTO) on 20 February 2002 and supplemented on 27 February 2002. As the present renewed petition is accompanied by a declaration executed by one of the previous non-signing inventors the petition is being treated as a petition under 37 CFR 1.47(a).

BACKGROUND

On 20 December 2001, applicant was mailed a decision dismissing applicant's renewed petition under 37 CFR 1.47(b). Applicant was afforded two months to file a response.

On 20 February 2002, applicant filed the present renewed petition.

On 27 February 2002, applicant filed by facsimile a supplement to papers filed 20 February 2002.

DISCUSSION

As noted above, applicant has provided a declaration executed by inventor Edward F. MYERS and therefore the renewed petition is being considered under 37 CFR 1.47(a).

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite $130 petition fee; (2) [illegible] proof that the missing joint inventor refuses to execute

proceeding pursuant to 37 CFR 1.47(b), applicant previously satisfied items (1) and (3).

As to item (2) above, applicant previously satisfied this item as to inventor Demetriou. Applicant has now provided firsthand knowledge that the remaining non-signing inventor, Dr. Li was provided a complete set of the application papers and cover letter seeking his signature on the provided declaration and that he refused to execute said declaration. Applicant has thus satisfied item (2).

Regarding item (4), applicant has now provided a declaration executed by inventor Myers executed on his behalf and on the behalf of the non-signing joint inventors Demetriou and Li.

CONCLUSION

Applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 27 September 1994 under 35 U.S.C. 363, and will be given a date of **20 February 2002** under 35 U.S.C. 371(c).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventors at their last known addresses of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Leonard Smith
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459

OIPE IAP31
NOV 13 2008
PATENT & TRADEMARK OFFICE

DAC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTENTION: HONORABLE
COMMISSIONER FOR PATENTS

In re the Patent of: **MAEGAWA, HIROTOSHI**

Patent No. **5,966,386** Issued: **October 12, 1999**

For. **MANAGEMENT OF COMPUTER NETWORK FOR MULTI-MEDIA**

PETITION UNDER 37 CFR §1.183

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

Mail Stop DAC

November 13, 2008

Sir:

It is requested that a Certificate of Correction be issued to correct the designation of the assignees' name for the above-identified patent.

This request is being made in order to correct item [73]. A petition for Certificate of Correction was filed on September 10, 2008 that erroneously listed "Digital Vision Laboratories Corp.", a former assignee, as the sole assignee of U.S. Patent **5,966,386**. The petition was granted and the Certificate of Correction issued on October 28, 2008 (copy attached).

Also attached hereto is a copy of the most recent Notice of Recordation of Assignment Document showing the current assignees, **"Data Cake Baker Corporation" and "Maegawa, Kazuyoshi".**

Please correct the assignees as shown in the most recent Recordation of the Assignment of this patent as shown at Reel **021138** , Frame **0612.**

A proposed Certificate of Correction is submitted herewith. Please charge the amount of $230.00 ($100.00 fee for the Certificate of Correction and $130.00 fee for filing this Petition), or any other fees due, to our Deposit Account No. 01-2340.

Respectfully submitted,

KRATZ, QUINTOS & HANSON, LLP

Mel R. Quintos
Attorney for Applicant
Reg. No. 31,898

11/17/2008 JADDO1 00000009 012340 5966386
01 FC:1811 100.00 DA
02 FC:1464 130.00 DA

MRQ/ses

Atty. Docket No. **970127**
Suite 400
1420 K Street, N.W.
Washington, D.C. 20005
(202) 659-2930

23850
PATENT & TRADEMARK OFFICE

Enlosures: PTO-1050, Certificate of Correction issued on 10/28/08 and Notice of Recordation of Assignment recorded on 6/24/08

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **5,966,386**
APPLICATION NO. : **08/810,008**
DATED : **October 12, 1999**
INVENTOR(S) : **Hirotoshi Maegawa**

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

On the Title page:

Item "(73)" should read as:--**Data Cake Baker Corporation, Tokyo, Japan; Maegawa, Kazuyoshi, Mie, Japan**--.

MAILING ADDRESS OF SENDER:
KRATZ, QUINTOS & HANSON, LLP
1420 K Street, NW, Suite 400
Washington, DC 20005
(202)659-2930
PTO-1050 (REV. 3/82)

Patent No.:**5,966,386**

No. of add'l copies

@ 30¢ per page
⇒ _____

970127

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 5,966,386
APPLICATION NO. : 08/810008
DATED : October 12, 1999
INVENTOR(S) : Hirotoshi Maegawa

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

On the Title page:

Item "(73)" **"Digital Vision Laboratories Corp., Tokyo, Japan"**

should read:

Item "(73)" **--Digital Vision Laboratories Corp., Tokyo, Japan Maegawa, Kazuyoshi, Mie, Japan--**

THIS SHOULD READ AS:

-- DATA CAKE BAKER CORPORATION, TOKYO, JAPAN; MAEGAWA, KAZUYOSHI, MIE, JAPAN --

Signed and Sealed this

Twenty-eighth Day of October, 2008

Jon W. Dudas

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

500575490A

JUNE 24, 2008

PTAS

KRATZ, QUINTOS & HANSON, LLP.
1420 K STREET, N.W. SUITE 400
WASHINGTON, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 06/24/2008

REEL/FRAME: 021138/0612
NUMBER OF PAGES: 6

BRIEF: CORRECTIVE ASSIGNMENT TO CORRECT THE NUMBER OF RECIEVING PARTY FROM ONE TO TWO PREVIOUSLY RECORDED ON REEL 013343 FRAME 0230. ASSIGNOR(S) HEREBY CONFIRMS THE NAME OF KAZUYOSHI MAEGAWA (ASSIGNEE) BE ADDED AS ONE OF THE RECEIVING PARTY.

DOCKET NUMBER: 970127

ASSIGNOR:
DIGITAL VISION LABORATORIES CORPORATION

DOC DATE: 09/25/2002

ASSIGNEE:
DATA CAKE BAKER CORPORATION
53-46, SAKURAGAOKA 1-CHOME,
TAMA-SHI, TOKYO, JAPAN 206-0013

ASSIGNEE:
MAEGAWA, KAZUYOSHI
406-2, NAGASHIMA, KIINAGASHIMA,
KITAMURO-GUN,
MIE, JAPAN 519-3205

021138/0612 PAGE 2

SERIAL NUMBER: 08810008 FILING DATE: 03/04/1997
PATENT NUMBER: 5966386 ISSUE DATE: 10/12/1999
TITLE: MULTIMEDIA NETWORK SYSTEM AND METHOD OF COMMUNICATION OF SAME

KIMBERLY WHITE, EXAMINER
ASSIGNMENT SERVICES BRANCH
PUBLIC RECORDS DIVISION

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 4/3/02 Paper No.: 21

TO : Supervisor, Art Unit 2857

SUBJECT : Certificate of Correction Request in Patent No.: 5870699

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, regarding the changes requested in the Request for Certificate of Correction, by placing a check mark (✓) in the box that reflects your decision, which corresponds to the question checked above.

☒ YES ☐ NO ☐ Comments below

☐ Comments:

PATRICK ASSOUAD
PRIMARY EXAMINER

Supervisor 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

FOLEY & LARDNER
3000 K ST NW
SUITE 500
WASHINGTON DC 20007-8696

COPY MAILED
AUG 2 1 2006
OFFICE OF PETITIONS

In re	:
Prahl, et al.	: DECISION ON APPLICATION
Application No. 08/811,057	: FOR PATENT TERM ADJUSTMENT
Filed: March 3, 1997	:
Attorney Docket No. 030307-0154	:

This decision is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed September 1, 2005, notifying the Office of an error in Applicants' favor in the determination of patent term adjustment under 35 U.S.C. 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred seventy-nine (179)**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **one hundred seventy-nine (179) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

As a Continued Prosecution Application (CPA) was filed in the instant application on November 30, 2001, the application is entitled to the benefits of the patent term adjustment provisions of 35 U.S.C. §154(b) and 37 C.F.R. §§1.702 through 1.705.[1]

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[1] See MPEP 2730.

On June 2, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is seven hundred sixty-three (763) days.

The Office initially determined a patent term adjustment of seven hundred sixty-three (763) days based on an adjustment for PTO delay of eight hundred fifty-four (854) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by ninety-one (91) days of applicant delay pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustment of 854 days is at issue.

The adjustment of eight hundred fifty-four (854) days was is error. Applicants filed an Amendment that placed the application in condition for allowance on May 28, 2004.[2] Accordingly, PTO delay in mailing the Notice of Allowance should have been assessed as two hundred seventy (270) days, not eight hundred fifty-four (854) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred seventy-nine (179) days** (270 days of PTO delay, reduced by 91+91 days of Applicant delay).

As the instant letter was submitted to advise the Office of an error in Applicants' favor, no fee was required.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: Copy of adjusted PAIR calculation

---

[2] As evidenced by the fact that the Office mailed a Notice of Allowance after Applicants filed a Notice of Appeal.

Day : Wednesday

PALM INTRANET

Date: 8/2/2006
Time: 15:35:12

PTA Calculations for Application: 08/811057			
Application Filing Date:	03/03/1997	PTO Delay (PTO):	854
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	91
Post-Issue Petitions:	0	Total PTA (days):	179
PTO Delay Adjustment:	-584		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
110	08/02/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		584	
95	06/02/2005	MAIL NOTICE OF ALLOWANCE	854		55
94	04/16/2005	ISSUE REVISION COMPLETED			
93	04/16/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
92	04/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
91	04/07/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
90	04/16/2005	NOTICE OF ALLOWABILITY			
89	03/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
88	11/03/2004	NOTICE OF APPEAL FILED			
87	11/03/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
86	08/30/2004	MAIL ADVISORY ACTION (PTOL - 303)			
85	08/27/2004	ADVISORY ACTION (PTOL-303)			
84	08/25/2004	DATE FORWARDED TO EXAMINER			
83	05/28/2004	AMENDMENT AFTER FINAL REJECTION			
82	08/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
81	05/04/2004	MAIL FINAL REJECTION (PTOL - 326)			
80	08/24/2004	FINAL REJECTION			
76	04/27/2004	DATE FORWARDED TO EXAMINER			
75	04/22/2004	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
74	04/27/2004	DATE FORWARDED TO EXAMINER			
73	04/22/2004	REQUEST FOR CONTINUED EXAMINATION (RCE)		91	68
		DISPOSAL FOR A RCE/CPA/129 (EXPRESS			

72	04/27/2004	ABANDONMENT IF CPA)			
71	04/22/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
70	04/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
69	04/22/2004	WORKFLOW - REQUEST FOR RCE - BEGIN			
68	10/22/2003	MAIL FINAL REJECTION (PTOL - 326)			
67	10/20/2003	FINAL REJECTION			
63	01/22/2003	DATE FORWARDED TO EXAMINER			
62	11/30/2001	REQUEST FOR CONTINUED EXAMINATION (RCE)			
61	01/22/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
60	09/18/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
59	09/18/2002	WORKFLOW - REQUEST FOR CPA - BEGIN			
58	12/31/2001	MAIL NOTICE OF MISSING PARTS CPA			
57	12/31/2001	COMMUNICATION TO APPLICANT FOR MISSING PARTS CPA			
56	12/31/2001	DATE FORWARDED TO EXAMINER			
55	11/30/2001	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
54	12/31/2001	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	11/30/2001	REQUEST FOR EXTENSION OF TIME - GRANTED			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ALEXANDRIA, VA 22313-1450
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MAR 23 2004

Paper No. 11

In re Application of
Pierre Farley *et al*
Application No. 08/811,925
Filed: March 5, 1997
Attorney Docket No. 12730-2-US-M

DECISION ON PETITION

This is a decision on the petition filed on March 8, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated October 1, 1997. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the failure to file a reply to the Office letter in question was a result of the failure of petitioners to receive the Office letter. In support of that allegation, petitioners have made a showing pursuant to the Notice published at 1156 OG 53 with respect to establishing nonreceipt of Office correspondence. This Notice is also discussed in MPEP 711.03(c). Petitioners have also filed a terminal disclaimer.

A review of the file shows that the correspondence address of record differs somewhat from the requested correspondence address as set forth on the 37 CFR 1.63 declaration that was originally filed with the application. Therefore, petitioners are entitled to the relief requested by reason of the fact that the Office letter in question was not correctly addressed. It is noted that petitioners' showing of nonreceipt of Office correspondence is also sufficient to establish that they did not receive the Office letter in question. Petitioners are also advised that the terminal disclaimer submitted with the petition is not necessary, and has not been entered.

As this application is not in fact abandoned, 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 Technology Center 3700 for remailing a complete copy of the Office letter dated October 1, 1997, together with all attachments thereto including references. **Prior to mailing**, the PALM correspondence address must be changed to agree exactly with the address as reproduced at the bottom of this Decision. The period for reply to the remailed Office action will run THREE MONTHS from the date upon which the action is remailed, and can be extended up to the statutory maximum of six months under the provisions of 37 CFR 1.136(a).

Petitioners should note that the correspondence address of record, per the original declaration, varies slightly from that set forth on their petition. Should a correction be deemed necessary, petitioners must file a request for change of correspondence address. Note also that this application is pending in Art Unit 3711.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Swaby Ogilvy Renault
1981 McGill College
Suite 1600
Montreal, Quebec, Canada
H3A 2Y3

VIA AIR MAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

2006 NOV - 7 2006

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

Marc Chao
Takeda Pharmaceuticals North America, Inc.
Intellectual Property Department
475 Half Day Road
Lincolnshire, IL 60069

In re Shigenori Ohkawa et al. Application for Patent Term Extension under 35 U.S.C. § 156 Filed: September 7, 2005 For: U.S. Patent No. 6,034,239	DECISION DISMISSING PETITION UNDER 37 CFR 1.59

This is a decision on the patent owner's August 24, 2006 petition titled PETITION TO EXPUNGE CERTAIN PROPRIETARY INFORMATION FROM APPLICATION FOR EXTENSION OF PATENT TERM OF UNITED STATES PATENT NO. 6,034,239 UNDER 37 C.F.R. § 1.59.

On page 2 of the petition, the patent owner authorizes the Office to charge fees associated with the petition to deposit account number 50-0799. The $200 fee set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59 has been charged.

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

SUMMARY

The patent owner's petition under 37 CFR 1.59 is dismissed for failure to comply with 37 CFR 1.59(b), MPEP 2760, and MPEP 724.02. The patent owner may request reconsideration.

REVIEW OF FACTS

1. U.S. Patent No. 6,034,239 issued on March 7, 2000, based on application number 08/812,168 filed March 6, 1997.

2. On September 7, 2005, patent owner Takeda Pharmaceutical Company Ltd. filed an application with the U.S. Patent and Trademark Office (Office) for patent term extension (PTE) under 35 U.S.C. § 156.

3. Pursuant to 35 U.S.C. § 156(d)(2)(A)(ii), the Office forwarded a copy of the PTE application to the Food and Drug Administration (FDA) on October 11, 2005. The Office requested the FDA's assistance in determining that the identified

product, ROZEREM™ (ramelteon), had been subject to the required regulatory review period, and that the PTE application had been filed within the statutory time period.

4. On February 24, 2006 the FDA replied to the Office, stating that the product had been subject to a regulatory review as required by 35 U.S.C. § 156(a)(4), and that the review had authorized the first commercial marketing or use of the product under 35 U.S.C. § 156(f)(1). The FDA also verified that the PTE application had been timely filed.

5. On March 28, 2006, the Office informed the FDA that since the patent was considered to be eligible for patent term extension, it was necessary that the FDA determine the length of the applicable regulatory review period.

6. On June 19, 2006, the FDA published a Federal Register notice (71 Fed. Reg. 31275) regarding its determination of the regulatory review period. The period for requesting review of the FDA's determination expired on August 18, 2006. The period for petitioning for a determination of whether the applicant for PTE acted with due diligence before the FDA during regulatory review will expire on December 18, 2006.

7. The patent owner filed the instant petition to expunge pages 1-4 and 6-38 of Exhibit C (all pages except page 5) on August 24, 2006.

DECISION

Proceedings concerning PTE applications are public; see MPEP 2753. Under current practice, when a PTE application is filed with the Office it is made publicly available via the web site as part of the patent application file.

The instant petition requests that all pages of Exhibit C except page 5 be expunged. The petition was filed under 37 CFR 1.59, which states in pertinent part:

> (a) (1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or § 41.7(a) of this title.
>
> . . .
>
> (b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the

petition for expungement will be provided.

MPEP 2760 is also relevant to the issue at hand, stating in pertinent part:

> There is no provision in the statute or the rules for withholding from the public any information that is submitted to the Office or the regulatory agency relating to an application for patent term extension. While one submitting such materials to the Office in relation to a pending application for patent term extension must generally assume that such materials will be made of record in the file and be made public, the Office is not unmindful of the difficulties this sometimes imposes. Proprietary or trade secret information should be submitted generally in accordance with the procedures set forth in MPEP § 724.02. Identification of the propriety or trade secret material should be made by page, line, and word, as necessary. The Office will not in the first instance undertake the task of determining the precise material in the application which is proprietary or trade secret information. Only the applicant is in a position to make this determination. See In re Schering-Plough Corp., 1 USPQ2d 1926, 1926 (Comm'r Pat. & Tm. 1986).

It should be noted that the present record does not reflect that the materials for which the patent owner now requests expungement were submitted in compliance with MPEP 724.02. That section of the MPEP 724.02 provides:

> Information which is considered by the party submitting the same to be either trade secret material or proprietary material, and any material subject to a protective order, must be clearly labelled as such and be filed in a sealed, clearly labelled, envelope or container. Each document or item must be clearly labelled as a "Trade Secret" document or item, a "Proprietary" document or item, or as an item or document "Subject To Protective Order." . . . Of course, the envelope or container, as well as each of the documents or items, must be labelled with complete identifying information for the file to which it is directed, including the Office or area to which the envelope or container is directed.
>
> . . .
>
> The envelope or container must be accompanied by a transmittal letter which also contains the same identifying information as the envelope or container. The transmittal letter must also state that the materials in the envelope or container are considered trade secrets or proprietary, or are subject to a protective order, and are being submitted for consideration under MPEP § 724.

Although the top of each page of Exhibit C is clearly marked "Confidential Document Takeda Property," those pages of Exhibit C that the patent owner now petitions to have

expunged from the record were not submitted in a sealed and labelled envelope or container as required. Instead, the patent owner submitted the entire PTE application packet including Exhibit C to the Office via U.S. mail directed to "Mail Stop: Patent Extension." The mailing was logged in at the Office of Initial Patent Examination on September 7, 2005, and received by the Office of Petitions on September 9, 2005. Therefore, in accordance with Office rules and procedures, any member of the public could have requested and been granted access to Exhibit C and the remaining PTE application documents beginning in September 2005. Furthermore, in accordance with current practice, the entire PTE application was posted on the Office web site in due course, and became publicly available over the Internet. The Office has no way of knowing whether the PTE application was actually accessed by any member of the public.

In addition, and as indicated above, a copy of the entire PTE application including Exhibit C was forwarded by the Office to the FDA on October 11, 2005. The patent owner is advised that the Office has no control over FDA practice regarding access to PTE application files. Thus it is possible that the material for which expungement is requested has already been publicly accessible via the FDA in addition to via the Office.

The first sentence on page 3 of the petition states, "Public release of this information would be irreparably detrimental to Takeda." No other explanation of harm to Takeda associated with release of the information is provided. The patent owner's statement as to irreparable detriment does not satisfy the obligation under 37 CFR 1.59(b) to "establish to the satisfaction of the Director that the expungement of the information is appropriate" because it is entirely conclusory. It does not explain how irreparable damage will occur if the Director now declines to expunge the information, in view of the fact that the information for which expungement is requested had been publicly released nearly a year before the instant petition was filed.

For the foregoing reasons, the petition under 37 CFR 1.59 is dismissed. The patent owner failed to comply with 37 CFR 1.59(b), MPEP 2760, and MPEP 724.02.

The patent owner may submit additional information and request reconsideration of this decision within **TWO MONTHS** of the date of this letter. This period for response is non-extendable. Note that per MPEP 2760, second paragraph, a suitable petition to expunge must be submitted prior to issuance of the certificate of extension. Barring any petition to establish due diligence during the regulatory process before the FDA, or any other unexpected delay, the FDA's determination of the regulatory review period will become final on December 18, 2006 and the certificate of extension will issue in due course thereafter. If no reply to this decision is received within two months of the date of this letter, this decision will become a final agency action within the meaning of 5 U.S.C. § 704.

CONCLUSION

1. The petition under 37 CFR 1.59 is dismissed.

2. The patent owner may request reconsideration of this decision within **TWO MONTHS** of the date of this letter.

3. This decision will become a final agency action within the meaning of 5 U.S.C. § 704 if no request for reconsideration is submitted within two months.

4. Telephone inquiries related to this decision should be directed to Kathleen Kahler Fonda, Legal Advisor, at (571) 272-7754.

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

JAN 31 2008

Marc Chao
Takeda Pharmaceuticals North America, Inc.
Intellectual Property Department
475 Half Day Road
Lincolnshire, IL 60069

In re Shigenori Ohkawa et al.	:	DECISION ON RECONSIDERATION
Application for Patent Term Extension	:	DISMISSING PETITION TO EXPUNGE
under 35 U.S.C. § 156	:	AND PLACING PROPRIETARY
Filed: September 7, 2005	:	INFORMATION UNDER
For: U.S. Patent No. 6,034,239	:	TEMPORARY ELECTRONIC SEAL

This is a decision on the patent owner's December 18, 2006 REQUEST FOR RECONSIDERATION. The patent owner asks that the Office reconsider the November 7, 2006 dismissal of its petition titled PETITION TO EXPUNGE CERTAIN PROPRIETARY INFORMATION FROM APPLICATION FOR EXTENSION OF PATENT TERM OF UNITED STATES PATENT NO. 6,034,239 UNDER 37 C.F.R. § 1.59.

The Request for Reconsideration is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

SUMMARY

The decision of November 7, 2006 has been reconsidered in response to the patent owner's request, and is again dismissed. However, in view of the information provided in the Request for Reconsideration, Exhibit C has been placed under temporary electronic seal and is now unavailable to the public. The temporary seal will be lifted and the document again made available to the public unless the patent owner provides the Office with a revised Exhibit C that contains only the material from page 5 of Exhibit C as originally filed within the time period specified below.

REVIEW OF FACTS

1. U.S. Patent No. 6,034,239 issued on March 7, 2000, based on application number 08/812,168 filed March 6, 1997.

2. On September 7, 2005, patent owner Takeda Pharmaceutical Company Ltd. filed an application with the U.S. Patent and Trademark Office (Office) for patent term extension (PTE) under 35 U.S.C. § 156.

3. Pursuant to 35 U.S.C. § 156(d)(2)(A)(ii), the Office forwarded a copy of the PTE application to the Food and Drug Administration (FDA) on October 11, 2005. The Office requested the FDA's assistance in determining that the identified product, ROZEREM™ (ramelteon), had been subject to the required regulatory review period, and that the PTE application had been filed within the statutory time period.

4. On February 24, 2006, the FDA replied to the Office, stating that the product had been subject to a regulatory review as required by 35 U.S.C. § 156(a)(4), and that the review had authorized the first permitted commercial marketing or use of the product under 35 U.S.C. § 156(f)(1). The FDA also verified that the PTE application had been timely filed.

5. On March 28, 2006, the Office informed the FDA that since the patent was considered to be eligible for patent term extension, it was necessary that the FDA determine the length of the applicable regulatory review period.

6. On June 19, 2006, the FDA published a Federal Register notice (71 Fed. Reg. 31275) regarding its determination of the regulatory review period. The period for requesting review of the FDA's determination expired on August 18, 2006. The period for petitioning for a determination of whether the applicant for PTE acted with due diligence before the FDA during regulatory review expired on December 18, 2006.

7. The patent owner filed a petition under 37 CFR 1.59 to expunge pages 1-4 and 6-38 of Exhibit C (all pages except page 5) on August 24, 2006.

8. On November 7, 2006, the Office issued a decision dismissing the patent owner's petition to expunge. The decision indicated that the patent owner could request reconsideration within two months of the date of the dismissal.

9. The patent owner's Request for Reconstitution was timely filed on December 18, 2006.

10. On January 10, 2007, the FDA forwarded a letter to the Office indicating that the determination of the regulatory review period had been finalized.

DECISION

Section 2760 of the Manual of Patent Examining Procedure (MPEP) concerns trade secret, confidential, and protective order material filed in connection with an application for patent term extension under 35 U.S.C. 156, and states:

> Proprietary or trade secret information [relating to an application for patent term extension] should be submitted generally in accordance with the

procedures set forth in MPEP § 724.02.

> . . . If such information [submitted in accordance with MPEP § 724.02] was material to a determination of eligibility or any other Office responsibility under 35 U.S.C. 156, it will be made public at the time the certificate of extension is issued. Otherwise, if a suitable petition to expunge is filed before the issuance of the certificate, the trade secret or confidential information will be expunged from the file and returned to the patent term extension applicant.

Thus, MPEP 2760 invites a petition to expunge proprietary material in a 35 U.S.C. 156 patent term extension application when the proprietary material has been submitted in accordance with MPEP § 724.02; petitions to expunge generally are governed by 37 CFR 1.59(b). However, MPEP 2760 does not explicitly discuss procedures to be followed when, as has been alleged by the patent owner herein, proprietary materials are unintentionally submitted in a 35 U.S.C. 156 application for patent term extension. Furthermore, no other section of the MPEP has been identified that explicitly addresses this question. Therefore, in view of the recognized applicability of a petition to expunge in an application for patent term extension under 35 U.S.C. 156, at least in the particular circumstance of compliance with MPEP § 724.02, and in view of the lack of specific procedures for treating proprietary materials that were unintentionally submitted in an application for patent term extension under 35 U.S.C. 156, the procedure under MPEP 724.05 for treating a petition to expunge under 37 CFR 1.59(b) is followed in deciding the patent owner's petition, insofar as it may be adapted to the patent term extension context.

The patent owner acknowledges that the portion of the information in Exhibit C now stated to be proprietary information was not submitted in accordance with MPEP § 724.02.[1] Request for Reconsideration, page 1. Furthermore, the patent owner convincingly argues that subsections I and II of MPEP 724.05 are applicable to the present factual situation. Id. The patent owner then proceeds to provide an adequate explanation or assertion concerning requirements (A)-(E) of subsection I and requirements (A)-(F) of subsection II. Id. at 1-4.

Upon reconsideration and in view of the patent owner's explanations and assertions, Exhibit C has been electronically sealed, at least temporarily, and is presently not available to the public. Since the document in question is contained electronically in an Image File Wrapper (IFW), it cannot be physically returned to the patent owner. Rather, upon submission to the Office of a redacted version of Exhibit C containing only the material on page 5, the relief afforded to the patent owner will take the form of substitution of the redacted version for Exhibit C as originally filed, and the original Exhibit C will remain permanently electronically sealed.

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[1] MPEP § 724.02 requires that proprietary information be "filed in a sealed, clearly labelled, envelope or container."

The patent owner is reminded that proceedings concerning PTE applications are public; see MPEP 2753. Under current practice, when a PTE application is filed with the Office it is made publicly available via the public Patent Application Information Retrieval (PAIR) system. In PAIR, all patent prosecution and patent term extension documents are available to the public. Although the information which is the subject of this decision has now been at least temporarily electronically sealed, that information had already been made available to the public and had been subject to copying under 37 CFR 1.11(d), as indicated in the dismissal of December 7, 2006. Accordingly, the Office cannot guarantee that the materials currently under seal as a result of this decision were not previously accessed by the public.

For the foregoing reasons, the petition under 37 CFR 1.59(b) is dismissed.

The patent owner is given a period of **ONE MONTH** of the date of this letter to submit a redacted version of Exhibit C as discussed above. This period for response is non-extendable. If no reply to this decision is received within one month of the date of this letter, Exhibit C as originally filed will be unsealed and again available to the public, and this decision will become a final agency action within the meaning of 5 U.S.C. § 704.

CONCLUSION

1. The November 7, 2006 decision dismissing the patent owner's petition of August 24, 2006 has been reconsidered as requested. The petition under 37 CFR 1.59(b) is again dismissed.

2. Exhibit C has been at least temporarily electronically sealed in view of explanations and assertions provided by the patent owner in the Request for Reconsideration of December 18, 2006.

3. The patent owner must provide a redacted version of Exhibit C to replace the original version within ONE MONTH of the date of this letter in order to avoid unsealing of original Exhibit C.

4. Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-7754.

Kathleen Kahler Fonda

Kathleen Kahler Fonda
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, DC 20231

RJH
Paper No. 20

AUG 23 2001

In re Application of:
BOEHRINGER ET AL.
Serial No.: 08/812,616
Filed: March 06, 1997
For: Quantitative Lateral Flow Assays and Devices

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 28, 2001, to withdraw the holding of abandonment.

This application was filed as a continued prosecution application on January 21, 1999. On February 23, 2000, a final Office action was mailed to applicants. On September 1, 2000, a non-final Office action was mailed to applicants which vacated the February 23, 2000 Office action. The February 23, 2000 Office action was presumably vacated because it did not take into consideration a preliminary amendment filed on January 6, 2000 (certificate of mailing dated January 3, 2000). The original amendment filed January 6, 2000 is present in the file as are several copies that were faxed to the Office. On May 8, 2001, a notice of abandonment was mailed to applicants which indicated that the application was abandoned for failure to timely file a proper response to the September 1, 2000 Office action. On June 28, 2001, the present petition was filed.

Petitioner asserted that the abandonment should be withdrawn since a response was timely filed with a three month extension of time on March 5, 2001 (certificate of mailing dated March 1, 2001). Along with the petition, petitioner filed a copy of the response and the three month extension of time.

A review of the file revealed that the response and three month extension of time filed on March 5, 2001 were present in the application. It appears that the problem arose because the examiner thought that the March 5, 2001 response was merely a copy of the January 6, 2000 amendment and not a response to the September 1, 2000 Office action. In fact, the word "Duplicate" was written by someone on the top of the paper. Hence, the examiner abandoned the application for failure to respond to the September 2, 2000 Office action. However, the timely filing of the March 5, 2001 paper and extension of time and their presence in the application does not dispose of the issue of abandonment. For abandonment to be withdrawn, the March 5, 2001 paper must

be either fully responsive to the September 1, 2000 Office action or at least a *bone fide* attempt to advance the application to a final action. See 37 CFR 1.111, 37 CFR 1.135(c), and MPEP 714.12-714.03.

To determine whether the March 5, 2001 paper constitutes a proper response or a *bone fide* attempt to respond to the September 1, 2000 Office action a comparison of the paper with the January 6, 2000 amendment was done. This comparison revealed the following:

--The March 5, 2001 paper does indicate on page 1 that it is in response to the September 1, 2000 Office action whereas the January 6, 2000 paper indicates that it is a preliminary amendment.

--The amendments on page 1 through page 6, line 9, of the March 5, 2001 paper are identical to the amendments in the same place of the January 6, 2000 paper. Thus, it is not seen why such amendments were necessary to present in the March 5, 2001 paper.

--The March 5, 2001 paper attempted to add claims 121-143 whereas the January 6, 2000 paper added claims 121-125. Thus, the attempt to add claims 121-143 was confusing especially since claims 121-123 and 131 were identical to claims 122-125 as added by the January 6, 2000 paper.

--The "REMARKS" section of the March 5, 2001 paper only differed from the "REMARKS" section of the January 6, 2000 paper to a very minor degree. Two examples are: the claim numbers that should be pending listed in the second paragraph of the "REMARKS" section in both papers; and, the explanation as to what the Lou reference teaches (the explanation appears under section II in both papers). There is no real difference in the substance of the remarks of the two papers.

In addition, a comparison was done of the March 5, 2001 paper with the September 1, 2000 Office action. This comparison revealed the following:

--The paper argued a rejection under 35 U.S.C. 112, second paragraph, that was never made in the Office action.

--The paper argued a rejection of claims 1, 2, 5, 6, 13, 14, 53, 54, and 58 under 35 U.S.C. 102 over Lou et al whereas the rejection made in the Office action was only of claims 124 and 125.

--The claims listed in arguing many of the other rejections do not correspond with the claims rejected by the examiner in the Office action.

--There are art rejections argued in the paper that do not appear in the Office action, e.g., Lou in view of Weng, Lou in view of Katz, and Lou in view of Bunting.

--The paper fails to address the rejection of claims over Lou et al in view of Maggio et al and further in view of Eisinger et al as set forth in the September 1, 2000 Office action.

--Page 17 of the paper indicated that applicants consider claims 10 and 62 as being allowed. However, the Office action rejected those claims as being unpatentable over Lou et al in view of Maggio et al and further in view of Eisinger et al.

In view of the above noted comparisons, it has reasonably been concluded here that the March 5, 2001 paper is not fully responsive to the September 1, 2000 Office action and that the March 5, 2001 paper does not even constitute a *bone fide* attempt to advance the application to a final action. See 37 CFR 1.111, 37 CFR 1.135(c), and MPEP 714.12-714.03. With no proper and timely response to the September 1, 2000 Office action, there is no proper reason to withdraw the holding of abandonment.

PETITION DENIED.

John Doll

John Doll, Director
Technology Center 1600

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 24

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APR 2 4 2002

OFFICE OF PETITIONS

In re Application of
Boehringer, et al.
Application No. 08/812,616
Filed: March 6, 1997
Attorney Docket No. 273102007800

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on January 7, 2002 (Certificate of Mailing dated November 7, 2001), to revive the above-identified application.

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed September 1, 2000, which set a shortened statutory period for reply of three months. On March 5, 2001, petitioner (through previous counsel) filed an amendment, made timely by obtaining a three month extension of time and including a Certificate of Mailing dated March 1, 2001. A Notice of Abandonment was mailed on May 8, 2001. In response, petitioner filed a petition to withdraw the holding of abandonment on June 28, 2001, citing the timely filed amendment of March 5, 2001. However, this petition was denied in a decision mailed on August 23, 2001.[1] Accordingly, the above-identified application was abandoned as of March 2, 2001.

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

---

[1] The petition was denied because it was determined that the March 5, 2001 amendment did not constitute a *bona fide* attempt to respond to the final Office action.

The instant petition lacks item (1), the required reply.

With the instant petition, petitioner filed an amendment in response to the final Office action. The proposed reply to a final Office action required for consideration of a petition to revive must be either (1) a Notice of Appeal (and fee required by law); (2) an amendment that *prima facie* places the application in condition for allowance; (3) the filing of a continuing application under 37 CFR 1.53(b) or if applicable, 1.53(d); (4) a request for a continuing examination (RCE) under 37 CFR 1.114; or (5) if applicable, a 37 CFR 1.129(a) submission.

Petitioner's only submission, an amendment, has been determined by the examiner not to *prima facie* place the application in condition for allowance. Thus, petitioner has failed to submit the required reply.

In order for the application to be revived, petitioner must submit a required reply within the meaning of 37 CFR 1.137(b)(1). **Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal, the filing of a continuation application or a RCE.** If petitioner fails to reply in the form of a Notice of Appeal (and fee), a proper continuing application, or a proper RCE, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application.

The Revocation and Power of Attorney filed on March 5, 2002 is acknowledged and made of record. Future correspondence concerning the above-identified application will be mailed to the above address of record.

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

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (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 the undersigned at (703) 305-0272.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 27

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JUN 07 2002

OFFICE OF PETITIONS

In re Application of
Boehringer, et al.
Application No. 08/812,616
Filed: March 6, 1997
Attorney Docket No. 273102007800

ON RENEWED PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on May 31, 2002.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the non-final Office action mailed September 1, 2000, which set a shortened statutory period for reply of three months. On March 5, 2001, petitioner (through previous counsel) filed an amendment, made timely by obtaining a three month extension of time and including a Certificate of Mailing dated March 1, 2001. A Notice of Abandonment was mailed on May 8, 2001. In response, petitioner filed a petition to withdraw the holding of abandonment on June 23, 2001, citing the timely filed amendment of March 5, 2001. However, this petition was denied in a decision mailed on August 23, 2001.[1] Accordingly, the above-identified application was abandoned as of March 2, 2001.

Petitioner filed a petition to revive under 37 CFR 1.137(b) on January 7, 2002. However, this petition was dismissed in a decision mailed on April 24, 2002. The petition was dismissed because the accompanying amendment failed to *prima facie* place the application in condition for allowance. When filing an amendment in response to a final Office action, only an amendment that *prima facie* places the application in condition for allowance serves as the proper reply under 37 CFR 1.137(b)(1). However, a more careful review of the application file confirms that the Office action mailed on September 1, 2000 was **not** a final Office action. Rather, the September 1, 2000 Office action was a non-final Office action that vacated the previous final Office action mailed on February 23, 2000.

---

[1] The petition was denied because it was determined that the March 5, 2001 amendment did not constitute a *bona fide* attempt to advance the application to a final Office action.

With the instant petition, petitioner has met the requirements for a grantable petitition under 37 CFR 1.137(b). The petition fee and the required reply (an amendment) were previously submitted with the earlier petition on January 7, 2002.

The Notice of Appeal submitted with the instant petition has **not** been entered, although a copy will remain in the application file.

The application file is being forwarded to Technology Center 1600 for consideration of the amendment filed January 7, 2002 (paper no. 22).

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

Cliff Congo

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,034,135	2000-03-07	08/812,771	1997-03-06	076439-9002-US00

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	/teresa j welch/	Date (YYYY-MM-DD)	2010-03-05
Name	Teresa J. Welch	Registration Number	33049

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. 6034135
Issue Date: March 7,2000
Application No. 08812771
Filed: March 6,1997
Attorney Docket No. 224/210

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

This is a decision on the electronic petition, filed March 5,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SEP 1 2000

Patent No. : 6,083,953
Inventor(s) : Nestor et al.
Issued : July 4, 2000
Title : 2-(2-AMINO-1,6-DIHYDRO-6-OXO-PURIN-9-YL) METHOXY-1,3- PROPANEDIOL DERIVATIVE
Docket No. : 13265-124/C3

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) 1.323.

Granting of a petition under 37 CFR 1.183, requesting the requirements of 37 CFR 3.81 to be waived, is required to correct applicant's error in the Assignee when the assignee data was not provided in accordance with either section 3.81(a) or (b) (either no data or an incorrect data was provided in item 3 of the Issue Fee transmittal when the assignment had been recorded or submitted for recordation at the time the issue fee was paid or when an incorrect name was provided in the petition required by section 3.81(b) when the assignment submitted for recording after the date of payment of the issue fee, but prior to issuance of the patent). This procedure is required at any time after the issue fee is paid, including after issuance of the patent.

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

A petition to correct the Assignee under 37 CFR 1.183 should include:

(1) the petition fee set forth in 37 CFR 1.117(h) (currently $130);
(2) the correct name and address of the assignee; and
(3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

Any petition under 37 CFR 1.183 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn.: Office of Petitions

If the petition under 37 CFR 1.183 is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), due to the mistake in not complying with CFR 3.81.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Erica Williams
Decisions & Certificates
of Correction Branch
(703) 305-8228

William Schmonsees
HELLER, EHRMAN, WHITE
& McAULIFFE, LLP
275 Middlefield Road
Menlo Park, CA 94025-3506

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 35

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3-8-25 SAIKUJO
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SPECIAL PROGRAMS OFFICE
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In re Application of:
Mitsuhiro Aida
Application No. 08/813,247
Filed: March 7, 1997

ON PETITION

This is a decision on the petition under 37 C.F.R. §1.137(b), filed June 2, 2000, to revive the above-identified application.

This application became abandoned for failure to timely reply to the final office action mailed October 13, 1999. A shortened statutory period of three (3) months was set for replying. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The shortened statutory period lapsed without a timely and proper reply. Consequently, the application became abandoned on January 14, 2000. *35 U.S.C. §133, 37 C.F.R. §1.134-136.*

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

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

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

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

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

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

As to Item (3), the statement of unintentional delay presented in the petition does not

comply with the current rule. Effective December 1, 1997, 37 C.F.R. §1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Because the March 22, 2000 Petition for Extension of Time was insufficient,[1] and consequently petitioner's CPA was not considered, petitioner may request a refund of this extension of time fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's written request.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nelson B. Snyder III in the Office of Petitions at (703) 305-0011.

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

[1]Although the Petition for Extension of Time was timely filed, any *extension* of time to include the period March 13, 2000 through April 13, 2000 (the hypothetical sixth month to respond) would *also* have to include the period January 13, 2000 through March 13, 2000 (the hypothetical fourth and fifth months).

UNITED STATES 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. 5984388
Issue Date: November 16,1999
Application No. 08814934
Filed: March 12,1997
Attorney Docket No. 237312JN/PW/

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

This is a decision on the electronic petition, filed October 21,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 21,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
5984388	1999-11-16	08814934	1997-03-12	141.199

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 J. Shea/	Date (YYYY-MM-DD)	2009-10-21
Name	Michael J. Shea	Registration Number	34725

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. 6044157
Issue Date: March 28,2000
Application No. 08815404
Filed: March 10,1997
Attorney Docket No. NAK1-AZ09

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

This is a decision on the electronic petition, filed November 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 November 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 the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6044157	2000-03-28	08815404	1997-03-10	ID 040108 - 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)	2008-11-11
Name	David J. Cushing	Registration Number	28703

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

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

TD

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/815,592	03/12/97	MARUTA M	1422-0297P

002292 IM22/0623
BIRCH STEWART KOLASCH & BIRCH
P O BOX 747
FALLS CHURCH VA 22040-0747

EXAMINER
YOON, T

ART UNIT	PAPER NUMBER
1714	23

DATE MAILED: 06/23/00

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

Mailed: Paper Number 23

In re application of	:	
Masayuki MARUTA et al.	:	
Serial No.: 08/815,592	:	**DECISION ON**
Filed: March 12, 1997	:	**PETITION**
For: POWDER COATING	:	

The Information Disclosure Statement filed May 4, 2000 (Paper No. 21) after a final action is in compliance with 37 CFR 1.97 in that the following items have been submitted: (i) a certification as specified in 37 CFR 1.97(e); (ii) a petition requesting consideration of the Information Disclosure Statement; and (iii) the petition fee as set forth in 37 CFR 1.17(i). Accordingly, the petition is granted and the case is forwarded to the examiner of record for consideration of the Information Disclosure Statement.

The petition is **GRANTED**.

Vasudevan S. Jagannathan
Supervisory Patent Examiner, Art Unit 1714
Technology Center 1700

BIRCH STEWART KOLASCH & BIRCH
P. O. Box 747
Falls Church, Virginia 22040

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. 21

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Matthew T. Latimer
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P
1300 I Street, NW
Washington, DC 20005

In re Application of :
Mark H. Pausch et al. :
Application No. 08/816,011 : DECISION ON PETITION
Filed: March 11, 1997 :
Attorney Docket No. 34.421-C2 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 22, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to timely file a fully responsive reply to the Office action mailed March 18, 1999, which set a shortened statutory period for reply of one (1) month. In the Office action, the examiner noted that Claims 1-33 and 36-39 of the instant application were pending and subject to restriction or election requirement. Petitioner obtained a one (1) month extension of time for reply on May 20, 1999 and filed a response to the Office action on this same date. The certificate of mailing date for these filings was May 17, 1999.

On August 18, 1999, the examiner mailed to petitioner a communication notifying petitioner of the insufficiency of petitioner's May 20, 1999 response to the March 18, 1999 Office action. Citing petitioner's bona fide attempt to respond appropriately to the March 18, 1999 Office Action, the examiner granted petitioner the longer of one (1) month or thirty (30) days from August 18, 1999 to provide the required information and notified petitioner that extensions of time for reply under 37 CFR 1.136(a) were available.

Petitioner obtained a one (1) month extension of time for reply on October 19, 1999 and filed a response to the examiner's communication of August 18, 1999. On January 5, 2000, the examiner mailed petitioner a communication notifying petitioner that the petitioner's response of October 19, 1999 was not fully responsive to the August 18, 1999 communication and that the application would become abandoned according to the shortened statutory period set in the August 18, 1999 communication unless petitioner corrected the deficiency and obtained an

extension of time for reply under 37 CFR 1.136(a) within the allowable period. Petitioner filed no further response to the January 5, 2000 communication and obtained no further extensions of time for reply within the allowable period. Accordingly, the application became abandoned on October 19, 1999.

The application is being forwarded to Technology Center 1600 for review of the "Response to Notice to Comply and Preliminary Amendment" filed by petitioner on June 22, 2000.

Telephone inquiries concerning this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 37

BEUSSE BROWNLEE WOLTER MORA & MAIRE
390 N. ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of
John F. Wironen et al.
Application No. 08/816,079
Filed: March 13, 1997
Attorney Docket Number: TB-101
Title: BONE PASTE

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed August 10, 2005, 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 CFR §1.113 in a timely manner to the final Office action mailed December 21, 2001, which set a shortened statutory period for reply of three (3) months. On June 21, 2002, Petitioner submitted an improper Continued Prosecution Application (CPA). On July 29, 2002, Applicant's counsel "authorized the abandonment of the subject application[2]."

Along with the present petition, Petitioner has submitted the petition fee.

Petitioner has failed to meet the requirements set forth in 37 C.F.R. §§1.137(b)(1) and (3). The fourth requirement is not applicable.

Regarding the first requirement, the petition states that a continuation application was submitted along with the present petition. Office records do not reflect the receipt of an application on August 10, 2005 which claims priority to the present application. The undersigned attempted to

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.

2 Petition, page 2.

reach the Petitioner via telephone on December 20, 2005, but was informed that the same was on leave for an extended period of time.

Regarding the third requirement, Petitioner has failed to include the required 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." Petitioner will be required to make this statement with exacting precision.

Furthermore, it is noted that Petitioner has set forth that the file history was retrieved and it was determined that the present application was abandoned in January of 2005[3], however the present petition was not submitted until August of that year. Petitioner will need to explain the reason(s) behind this portion of the delay.

For these reasons, the petition must be **DISMISSED**.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[4], hand-delivery[5], or facsimile[6].

It is further noted that Petitioner has attempted to change the power of attorney. Petitioner's request will not be granted for the following two reasons.

First, Petitioner has failed to establish a right to take action, pursuant to 37 C.F.R. §3.73(c)(2), in that a review of the assignment records indicates that there are a plurality of assignees who each have rights to this application. Petitioner has merely set forth that The University of Florida Research Foundation, Inc. is a part owner. The percentage of the interest has not been revealed.

Secondly, The Manual of Patent Examining Procedure ("MPEP"), § 402.10, Appointment/Revocation by Less Than All Applicants or Owners, provides:

> Papers giving or revoking a power of attorney in an application generally require signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition and fee under 37 CFR 1.182 giving good and sufficient reasons as to why such papers should be accepted. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.182 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. *See In re Goldstein*, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988). In an application filed under 37 CFR 1.47(a), an assignee of the entire interest of the available inventors who have signed the declaration may appoint or revoke a power of attorney without a petition under 37 CFR 1.182. See MPEP § 402.07. However, in applications accepted under 37 CFR 1.47, such a petition under 37 CFR 1.182 submitted by a previously nonsigning inventor who has now joined in the application will not be granted. See MPEP § 409.03(i). Upon accepting papers appointing and/or revoking a power of attorney that are signed

3 Petition, page 3.

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

5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

6 571-273-8300 - please note this is a central facsimile number.

by less than all of the applicants or owners, the Office will indicate to applicants who must sign subsequent replies. An indication will be placed on the file wrapper as to the number of signatures necessary for accepting subsequent replies and the paper number(s) where the split powers of attorney appear. Dual correspondence will still not be permitted. Accordingly, when the acceptance of such papers results in an attorney or agent and at least one applicant or owner prosecuting the application, correspondence will be mailed to the attorney or agent. When the acceptance of such papers results in more than one attorney or agent prosecuting the application, the correspondence address will continue to be that of the attorney or agent first named in the application, unless all parties agree. Each attorney or agent signing subsequent papers must indicate whom he or she represents.

The following are examples of who must sign replies when there is more than one person responsible for prosecuting the application:
(A) If coinventor A has given a power of attorney and coinventor B has not, replies must be signed by the attorney of A and by coinventor B.

(B) ***If coinventors A and B have each appointed their own attorney, replies must be signed by both attorneys.***

The Office will continue to conduct correspondence with the attorneys first named in the application, Timothy Van Dyke and Joseph Fischer, of the law firm of Beusse Brownlee Wolter Mora & Maire, at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to this Office. See, Manual of Patent Examining Procedure ("MPEP") 402.10.

It is noted that, notwithstanding this Decision, the inventors may still jointly appoint or revoke power of attorney.

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

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

UNITED STATES 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. 39

BEUSSE BROWNLEE WOLTER MORA & MAIRE
390 N. ORANGE AVENUE
SUITE 2500
ORLANDO FL 32801

COPY MAILED
AUG 16 2006
OFFICE OF PETITIONS

In re Application of	:	
John F. Wironen et al.	:	
Application No. 08/816,079	:	DECISION ON PETITIONS
Filed: March 13, 1997	:	UNDER 37 C.F.R. §§1.137(b)
Attorney Docket Number: TB-101	:	AND 1.182
Title: BONE PASTE	:	

This is a decision on the petition pursuant to 37 C.F.R. §1.182 to change the power of attorney by less than all applicants or owners, and the renewed petition pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application. Both petitions were filed concurrently on June 22, 2006.

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 December 21, 2001, which set a shortened statutory period for reply of three (3) months. On June 21, 2002, Petitioner submitted an improper Continued Prosecution Application (CPA). On July 29, 2002, Applicant's counsel "authorized the abandonment of the subject application[2]."

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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.

2 Petition, page 2.

The petition under 37 C.F.R. §1.137(b):

The original petition under this section of the C.F.R. was dismissed via the mailing of a decision on December 22, 2005, for failure to meet the first and third requirements of the Rule. With the present petition, Petitioner has corrected these deficiencies, provided an explanation of the delay, and submitted a four-month extension of time to make timely this response.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing Application No. 11/152,548.

The petition under 37 C.F.R. §1.182:

Petitioner has submitted the petition fee, as well as a good and sufficient reason as to why such papers should be accepted. However, Petitioner has failed to reveal the percentage of the interest of The University of Florida Research Foundation, Inc. As set forth on the second page of the decision on the original petition under 37 C.F.R. §1.137(b):

> Petitioner has failed to establish a right to take action, pursuant to 37 C.F.R. §3.73(c)(2), in that a review of the assignment records indicates that there are a plurality of assignees who each have rights to this application. Petitioner has merely set forth that The University of Florida Research Foundation, Inc. is a part owner. The percentage of the interest has not been revealed.

As such, the petition under 37 C.F.R. §1.182 is **DISMISSED**.

The Office will continue to conduct correspondence with the attorneys first named in the application, Timothy Van Dyke and Joseph Fischer, of the law firm of Beusse Brownlee Wolter Mora & Maire, at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to this Office. See, Manual of Patent Examining Procedure ("MPEP") 402.10.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries

---

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 Petitioner's further action(s).

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

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)
5,829,002	1998-10-27	08/816,206	1995-12-08	REF35003/771

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	/W. Curtiss Priest/	Date (YYYY-MM-DD)	2007-08-31
Name	W. Curtiss Priest		

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. 5829002
Issue Date: October 27,1998
Application No. 08816206
Filed: December 8,1995
Attorney Docket No. REF35003/771

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

In re Patent No. 5837598
Issue Date: November 17,1998
Application No. 08816254
Filed: March 13,1997
Attorney Docket No. P-3104

:
: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.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,837,598	1998-11-17	08/816,254	1997-03-13	P-3104

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher P. Maiorana/	Date (YYYY-MM-DD)	2007-03-30
Name	Christopher P. Maiorana	Registration Number	42829

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 22

UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP, LP
150 GLOVER AVENUE
NORWALK, CT 06856

COPY MAILED

NOV 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Scott E. Manzo, et al.	:	
Application No. 08/816,615	:	DECISION ON PETITION
Filed: March 13, 1997	:	
Attorney Docket No. 1876(203-183)	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), received April 14, 2008 with a certificate of mailing dated August 28, 2002, to revive the above-identified application.

The petition is **DISMISSED.**

This is also a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2008, which is being treated as a petition under 37 CFR 1.181(b), to withdraw the holding of the abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the Notice of Allowance mailed November 9, 1998. Petitioner indicated that a response was timely filed on February 9, 1999. In support the petitioner provides a copy of the Formal Drawings and a certificate of mailing with a date of deposit of February 9, 1999.

A review of the record shows that the petitioner timely filed a reply to the Notice of Allowability and a certificate of mailing of February 9, 1999 that was inadvertently forwarded to Application Serial No. 08/816,165 instead of 08/816,615. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated February 9, 1999, which would have rendered the reply timely if received in the proper application.

In view of the above the holding of abandonment is hereby withdrawn and the application is restored to pending status. Since the $1540 petition fee submitted with the petition on April 14, 2008 was deemed unnecessary, the petition fee will be credited to petitioner's deposit account.

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

The copy of the reply received with the petition will be accepted in place of the reply shown to have been mailed on February 9, 1999.

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

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

Carl Friedman
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER G. TRAINOR
CARTER, DELUCA, FARRELL & SCHMIDT
445 BROAD HOLLOW ROAD
MELVILLE, NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Thomas L. Owens
631 Sylvan Court
Batavia, IL 60510

MAILED

MAR 16 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,900,304	:	
Issue Date: May 4, 1999	:	
Application No. 08/816,664	:	
Filed: March 13, 1997	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 12, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 5, 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.

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

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

The patent file is being forwarded to Files Repository.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Thomas L. Owens
303 Opekiska Road
Fairmont, WV 26554

OIPE IAP39
JAN 1 2 2009
PATENT & TRADEMARK OFFICE

-1 Bov M

PTO/SB/66 (08-08)
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)

RECEIVED
JAN 2 3 2009
OFFICE OF PETITIONS

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. 5900304 Application Number 08/816,664

Issue Date May 4, 1999 Filing Date Mar. 13, 1997

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

03/17/2009 CKHLOK 00000014 5900304
01 FC:2552 1240.00 OP
02 FC:1558 1640.00 OP

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.

Jan. 8, 2009
Date

Thomas L. Owens
Signature

Thomas L. Owens
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.

01/13/2009 SLUANG1 00000002 5900304
01 FC:1599 2880.00 OP

Adjustment date: 03/17/2009 CKHLOK
01/13/2009 SLUANG1 00000002 5900304
01 FC:1599 -2880.00 OP

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)
☐ $ _____	7 1/2 yr fee	(1552)	☑ $ 1240	7 1/2 yr fee	(2552)
☐ $ _____	11 1/2 yr fee	(1553)	☐ $ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ 1240

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ 1640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED $ 1640

5. MANNER OF PAYMENT

☑ Enclosed is a check for the sum of $ 2880.

☐ Please charge Deposit Account No._____ the sum of $_____.

☐ 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._____.

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

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JAN 2 3 2009
OFFICE OF PETITIONS

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.

Thomas L. Owens
Signature(s) of Petitioner(s)

Jan. 8, 2009
Date

Thomas L. Owens
Typed or printed name(s)

Registration Number, if applicable

304-366-0802
Telephone Number

303 Opekiska Road
Address

Fairmont, WV 26554
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)

☐ _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/817,547	03/27/1997	KNUT ADERMANN	07856-0007	8367

23594 7590 07/08/2002

JOHN S. PRATT
KILPATRICK STOCKTON LLP
1100 PEACHTREE
SUITE 2800
ATLANTA, GA 30309

EXAMINER
KEMMERER, ELIZABETH

ART UNIT	PAPER NUMBER
1646	24

DATE MAILED: 07/08/2002

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 202
www.uspto.g

Paper No. 24

In re Patent No. 6,030,790 Issue Date: February 29, 2000 Appl No.: 08/817,547 Filed: September 22, 1995 For: Haemopep Pharma GmbH	:	**DECISION GRANTING PETITION** *37 CFR 1.324*

I. CORRECTION OF INVENTORSHIP UNDER 37 CFR 1.324

This is a decision on the petition filed 01 July 2002 (Paper No. 24) 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.

II. REQUEST FOR CORRECTION OF OFFICE MISTAKE

This is a decision on the request for correction of office mistake filed 01 July 2002 (Paper No. 24).

The request is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate of Corrections adding the text appearing on the form PTO 1050 attached as Attachment # 6 to Paper No. 24, 01 July 2002.

Yvonne Eyler

Yvonne Eyler, Ph.D.
Supervisory Patent Examiner,
Art Unit 1646,
Technology Center 1646

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. 29

John S. Pratt
KILPATRICK STOCKTON LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309

COPY MAILED

OCT 0 9 2002

OFFICE OF PETITIONS

In re Patent No. 6,030,790	:	
Issue Date: February 29, 2000	:	SUPPLEMENTAL
Application No. 08/817,547	:	DECISION ON
Filed: March 27, 1997	:	PETITION
Patentee: Knut ALDERMANN et al.	:	

This is a supplement to the decision on petition mailed August 6, 2002 and this decision is responsive to the additional petition and papers filed in the instant patent file by a third party under 37 CFR §1.182 or 1.183 on July 18 and 25, 2002.

The third party petition is dismissed.

Petitioners' attention is directed to the decision on third party petitions, mailed August 6, 2002. The instant petition is dismissed for the reasons set forth in that decision, the discussion of which is incorporated in its entirety into the instant decision.

Inasmuch as 35 USC §301 implicitly excludes third party submissions, such as that herein, from being placed in the file of a patent, the third party papers are being returned herewith.

This patent file is being forwarded to the Files Repository.

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

cc: Kate Murashige
Morrison and Foerster LLP
3811 Valley Centre Drive, Suite 500
San Diego, CA 92130-2332

Enclosure for cc: Papers filed July 18 and 25, 2002

18 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark M. Friedman
c/o Robert Sheinbein
2940 Birchtree Lane
Silver Spring, MD 20906

In re Application of MEIER FEDER, ET AL. U.S. Appl. No.: 08/817,549 PCT No.: PCT/US95/13296 Int. Filing Date: 17 October 1995 Priority Date: 18 October 1994 Agent's File Reference: 27/89 For: APPARATUS AND METHOD FOR COMPRESSING BINARIZED IMAGES	:	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicants' 17 July 2002 "Status Inquiry", which is being treated as a petition under 37 CFR 1.181 requesting that the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909 mailed 02 July 1997) be vacated. The petition is **GRANTED** as follows.

BACKGROUND

On 16 April 1997, applicants filed U.S. application 08/817,549 as a national stage entry of international application PCT/US95/13296. A signed declaration was not included with the application papers. However, applicants provided an authorization to charge the filing fees to counsel's Deposit Account No. 06-2140.

On 23 May 1997, applicants filed a signed declaration, a small entity statement and an authorization to charge the surcharge in the amount of $65 to counsel's Deposit Account No. 06-2140.

Notwithstanding the above, on 02 July 1997, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing applicant that U.S. application 08/817,549 is abandoned because applicants purportedly failed to provide the full U.S. Basic National Fee by 20 months from the earliest priority date as required under 37 CFR 1.494(b)(2).

DISCUSSION

A review of the application file reveals that applicants provided the Basic National Fee in a timely manner as the PCT Demand was filed prior to the expiration of 20 months from the priority date. The time period for filing the Basic National Fee expired on 18 April 1997. The Form PCT/DO/EO/909 mailed 02 July 1997 was sent in error. However, the declaration filed on 23 May 1997 is defective under 37 CFR 1.497 because it fails to identify all the inventors. The international application identifies three inventors, whereas the declaration only identifies two of the three inventors.

CONCLUSION

Accordingly, the Form PCT/DO/EO/909 mailed 02 July 1997 is hereby **VACATED.**

Accordingly, this application is being returned to the DO/EO/US to prepare a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/905) indicating an oath or declaration and the surcharge for submitting an oath or declaration later than 30 months from the earliest priority date.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Jeremy Fleming
Paralegal Specialist
PCT Legal Office

JSF/LS:jf

(703)308-6154

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. MARK M. FRIEDMAN
C/O BILL POLKINGHORN - DISCOVERY DISPATCH
9003 FLORIN WAY
UPPER MARLBORO MD 20772

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DEC 23 2008

In re Application of	:	
Feder et al.	:	
Application No. 08/817,549	:	DECISION ON PETITION
Filed: October 14, 2003	:	
Attorney Docket No. 27/89	:	

This is a decision on the petition, filed December 1, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed March 28, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 1, 2006.

Petitioner asserts that the Office action dated March 28, 2006 was not received. It is further noted that the Notice of Abandonment mailed on November 1, 2006 also not received. Petitioner also submitted status inquiries during the time period of abandonment.

A review of the written record indicates an irregularity in the mailing of the Office action of March 28, 2006. In this regard, the Office received a change of address on October 19, 2001 and January 17, 2002, prior to the mailing of the Office action of March 28, 2006. The address was improperly changed upon the submission of the declaration. However, the declaration was accompanied with a letter indicating that the address provided on the declaration had changed. Accordingly, as the Office action was mailed to an incorrect address, the Notice of Abandonment mailed November 1, 2006 is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2624 for remailing the Office action of March 28, 2006 and resetting the period for reply.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mark A. Litman & Associates, P.A.
York Business Center
3209 West 76th Street
Suite 205
Edina, MN 55435

COPY MAILED
JUL 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Edward W. Stark	:	
Application No. 08/818,289	:	ON PETITION
Filed: March 14, 1997	:	
Attorney Docket No. 653.001US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on February 2, 2006[1], to revive the above-identified application.

This application became abandoned for failure to timely submit formal drawings in response to the Notice of Allowability mailed July 30, 2003. A Notice of Abandonment was mailed on December 15, 2003.

Since $665 is required for treatment of the instant petition, that fee has been charged to petitioner's deposit account, as authorized.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of two (2) sheets of formal drawings containing Figures 1-2; (2) the petition fee of $665; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being referred to the Office of Publications for review of the two (2) sheets of formal drawings filed February 2, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

---

[1] Petitioner provided the Office with a copy of the postcard receipt, which shows that the USPTO received the instant petition, formal drawings, and an amendment on January 16, 2004. However, the above items were subsequently misplaced within the USPTO.

UNITED STATES 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. 5941834
Issue Date: August 24,1999
Application No. 08818921
Filed: March 17,1997
Attorney Docket No. 3415/9

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

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

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)
5,941,834	1999-08-24	08/818,921	1997-03-17	3415/9

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Allen I. Rubenstein/	Date (YYYY-MM-DD)	2007-11-30
Name	Allen I. Rubenstein	Registration Number	27673

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

#48

JEROLD B. SCHMAYER, ESQ.
WELSH & KATZ, LTD.
120 SOUTH RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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MAR 06 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Reissue Application of :
Elsässer, et al. :
Reissue Application No. : DECISION ON PETITIONS
08/819,099 :
Filed: March 4, 1997 :
Attorney Docket No. 5415.051-01 :

This is in response to the petition under 37 CFR 1.183, filed February 17, 2000, to waive the requirement of 37 CFR 1.172(a) and 1.175(b) that the applicant (all of the inventors) execute a supplemental declaration. The February 17, 2000 petition requests that the assignee be permitted to make the reissue oath or declaration behalf of the inventors. This is also in response to the petition under 37 CFR 1.183 filed November 10, 1999.

The petition filed February 17, 2000 is granted.

The petition filed November 10, 1999 is dismissed as moot.

The joint inventors signed the originally filed reissue declaration in the above-identified application. Petitioner has also shown that the inventors were subsequently asked to sign the supplemental reissue declaration, but that they refused.

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver.

Under the circumstances of this application, it is appropriate to waive the requirement of 37 CFR § 1.172(a) and 1.175(b) that the joint inventors sign the supplemental reissue declaration and to accept a supplemental reissue declaration signed by the assignee on behalf of the non-signing inventors instead. Such a declaration was also filed on February 17, 2000.

After mailing of this decision, the application will be returned to Examining Group Art Unit 2754 for further processing.

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

Karin Tyson
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6048413	2000-04-11	08819176	1997-04-28	LK.0002

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	/ADAM C. VOLENTINE/	Date (YYYY-MM-DD)	2008-07-21
Name	ADAM C. VOLENTINE	Registration Number	33289

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. 6048413
Issue Date: April 11,2000
Application No. 08819176
Filed: April 28,1997
Attorney Docket No. 86665

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

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

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

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OCT 12 2007

OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Patent No. 5809246	:	
Issue Date: 09/15/1998	:	
Application No. 08/819497	:	NOTICE
Filed: 03/17/1997	:	
Attorney Docket No. 341821-991100	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on 12 July, 2007.

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.

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

D Wood
Douglas I. Wood
Attorney
Office of Petitions

Cc:

THOMAS W. LOHSE
DLA PIPER US LLP
2000 EAST UNIVERSITY AVENUE
EAST PALO ALTO CA 94303-2248

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)
5,811,741	1998-09-22	08/820,121	1997-03-19	A96181US (14880.5)

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

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

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

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

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

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

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

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles C. Garvey, Jr., #27889/	Date (YYYY-MM-DD)	2008-06-24
Name	Charles C. Garvey, Jr.	Registration Number	27889

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.

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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. 5811741
Issue Date: September 22,1998
Application No. 08820121
Filed: March 19,1997
Attorney Docket No. A96181US

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

This is a decision on the electronic petition, filed June 25,2008 ,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 25,2008 . 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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OFFICE OF PETITIONS

ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE NY 11747-2712

In re Application of	:	
William G. Wilhelm	:	
Application No. 08/820,496	:	ON PETITION
Filed: March 19, 1997	:	
Attorney Docket No. None	:	

This is a decision on the petition, filed January 28, 2005, and supplemented on February 2, 2005, 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 October 8, 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) 272-3208.

The examiner of Technology Center AU 2836 will 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).

SEP 04 2002
PATENT & TRADEMARK OFFICE

Certificate
SEP 13 2002
of Correction

C of C

#34

Certification under 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 with sufficient postage as first class mail in an envelope addressed to The Commissioner for Patents, Washington, D.C. 20231 on August 30, 2002.

Richard J. Streit
Name

Signature

DOCKET: CU-1516

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPLICANT:	Terumi SUNAGA	)
PATENT NO:	6,381,233 B1	) Group Art Unit: 2661
ISSUE DATE:	April 30, 2002	) Examiner: K. N. Vanderpuye
TITLE:	SPREAD SPECTRUM COMMUNICATION TRANSMITTER AND RECEIVER, AND CDMA MOBILE COMMUNICATION SYSTEM AND METHOD	)

The Commissioner for Patents
Washington, D.C. 20231

REQUEST FOR CERTIFICATE OF CORRECTION
DUE TO PATENT OFFICE MISTAKE (37 cr 1.322(a))

Dear Sir:

This is a request for Certificate of Correction for the above referenced patent.

There appears an error on the title page of the patent wherein the filing date of the Japanese priority application is incorrect, as shown in red on the attached copy, namely that March 25, 2000 should be March 25, 1996.

To provide support of the filing date of the Japanese priority application, the following materials are also enclosed herewith:

1. Copy of the Combined Declaration & Power of Attorney in which the filing date of the Japanese priority application is indicated at the bottom of page 2 thereof.

SEP 17 2002

2. Copy of official filing receipt with indication of Japanese priority application.

3. Copy of title page of certified copy of Japanese priority application No. 8-092954 filed March 25, 1996 as submitted on August 21, 1997.

Attached is Form PTO/SB/44, which is believed to be suitable for printing.

It is believed that no fee is necessary for this Certificate of Correction, as the error occurred through no fault of the applicant.

In addition, it is believed that the enclosed materials unequivocally support the undersigned 's assertion of the correct filing date of the Japanese priority application, and a Certificate of Correction is respectfully requested to be issued as expeditiously as possible.

Respectfully submitted,

August 30, 2002
Date

Attorney for Applicant

/40

Richard J. Streit, Reg. 25765
c/o Ladas & Parry
224 South Michigan Avenue
Chicago, Illinois 60604
(312) 427-1300

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,381,233 B1
DATED : April 30, 2002
INVENTOR(S) : Terumi Sunaga

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 [30], **Foreign Application Priority Data**, delete "Mar. 25. 2000" and insert -- March 25, 1996 --

Signed and Sealed this

Twenty-eighth Day of January, 2003

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 6,381,233 B1

DATED: April 30, 2002

INVENTOR(S): Terumi SUNAGA

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

Item

Title page, ~~Section~~ (30) Foreign Application Priority Data

Delete "Mar. 25. 2000" and insert --March 25, 1996--

MAILING ADDRESS OF SENDER:

Ladas & Parry
224 South Michigan Avenue
Chicago, Illinois 60604

PATENT NO. 6,381,233

No. of additional copies
→

UNITED STATES 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. 5948359
Issue Date: September 7,1999
Application No. 08820883
Filed: March 21,1997
Attorney Docket No. P00170US0

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

This is a decision on the electronic petition, filed February 22,2008 ,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 22,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
5,948,359	1999-09-07	08/820,883	1997-03-21	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mary Jo Bertani/	Date (YYYY-MM-DD)	2008-02-23
Name	Mary Jo Bertani	Registration Number	42321

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

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

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

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

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

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Application of	:	
BIJL, et al.	:	
Application No. 08/821,025	:	DECISION ON PETITION
Filed: March 19, 1997	:	TO WITHDRAW
Attorney Docket No. 246152006900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 27, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas E. Ciotti on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: Hendrik Louis Bijl
Insulindestraat 72,
3131 ZD Vlaardingen
The Netherlands

cc: Mr. Bryan H. Davidson
Nixon & Vanderhye PC
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/821,025	03/19/1997	HENDRIK LOUIS BIJL	246152006900

CONFIRMATION NO. 3574

OC000000021172368

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/09/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/27/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/821,025	03/19/1997	HENDRIK LOUIS BIJL	246152006900

CONFIRMATION NO. 3574

OC000000021172040

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 11/09/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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)
5716649	1998-02-10	08821286	1997-03-20	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Winston Robinson/	Date (YYYY-MM-DD)	2007-04-04
Name	Winston Robinson		

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. 5716649
Issue Date: February 10,1998
Application No. 08821286
Filed: March 20,1997
Attorney Docket No. CEN-911-1815

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

This is a decision on the electronic petition, filed April 4,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 4,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

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OFFICE OF PETITIONS

In re Patent No. 6,137,954 :
Issue Date: October 24, 2000 :
Application No. 08/821,424 : DECISION ON PETITION
Filed: March 21, 1997 :
Attorney Docket No. 041465-5037 :

The above-identified patent was recently referred to the Office of Petitions for consideration of a "Petition For Correction of Order of Inventors' Name" filed November 3, 1999.

The petition is DISMISSED.

A review of the record indicates that a timely petition to change the order of inventors was filed in the above-identified application. However, the petition was not referred to the appropriate deciding official for a decision thereon. On October 24, 2000, the application issued as U.S. Patent No. 6,137,954, naming the inventors in the order identified in the original declaration. While the inconvenience caused petitioner in this matter is sincerely regretted, petitioner is reminded that according to the Manual of Patent Examining Procedure (MPEP), at 605.04(f), "no changes will be made [by the Director to the order of inventors] except when a petition under 37 C.F.R. 1.182 is granted."[1]

Judge Schall in *Fina Technology Inc. v. Ewen*, 60 USPQ2d 1314 (CA FC 2001), stated:

> Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent

[1] 37 C.F.R. §1.182 (2000) concerns situations that are not specifically provided for in other regulations and authorizes the Director to decide each case that arises in accordance with the merits of the situation.

> and a showing has been made that such mistake occurred in good faith, the Director[2] may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. Section 255 does not provide for action by a district court. Rather, the statute permits only the Director to issue a certificate of correction for a clerical error. Furthermore, the order of inventorship does not appear to be the type of mistake contemplated by §255. Examples of mistakes that fall under §255 typically include correcting a misspelled word or adding a prior art reference that was submitted to and discussed by the examiner but inadvertently omitted by the applicant on PTO Form 1449 for listing references. *See In re Arnott*, 19 USPQ2d 1049, 1053 (Comm'r Pat. 1991). The order of inventors in the heading of a patent is taken by the PTO directly from the order in which the names appear in the original oath or declaration. Man. Pat. Exam. P., §605.04(f) (7th ed. rev. 1 2000). is granted." Id. In short, the order of inventors is not a clerical error contemplated by §255, and cannot be corrected in a judicial proceeding under that provision.
>
> It is not problematic for district courts to lack the authority to correct the order of inventors because "the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned." Id. As we stated in Fina I, "if the inventors are properly named on the patent, Fina has no concerns about invalidity of the patent over inventorship problems." 123 F.3d at 1471, 43 USPQ2d at 1940.

In view of the above, since the order in which the names appear on the printed patent is of no consequence insofar as the legal rights of the joint applicants are concerned, and since there was no clerical error as contemplated by 35 U.S.C. § 255, the petition

---

[2] Effective March 29, 2000, the title of the head of the Patent and Trademark Office ("PTO") was changed from "Commissioner" to "Director." Pub. L. No. 106-113, 113 Stat.1501A-582 (1999). Although the district court and the parties refer to the head of the PTO by using the title "Commissioner,"we use the term "Director" to avoid confusion with the current statutory language.

under 37 CFR 1.182 to change the order of inventorship in the above-identified patent must be dismissed.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 26

FISH & RICHARDSON P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

In re Application of MEYER et al. Application No. 08/821,760 Filed: March 20, 1997 For: VISUAL LATCHING INDICATOR FOR AN ELECTRICAL BUSHING AND TERMINATOR	))))))	DECISION ON PETITION

This is a decision on the petition filed on June 19, 2002, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to pay the required issue fee within the statutory period of three months from the mailing date of January 25, 2002 of the Notice of Allowance. A Notice of Abandonment was mailed on May 30, 2002.

Petitioner states that the Notice of Allowance was never received, and the issue fee was not paid, because the Notice of Allowance was sent to the previous attorney of record and was not forwarded to the practitioner.

A review of the application file indicates that the Notice of Allowance was not mailed to the practitioner at the correspondence address provided in the Revocation and New Power of Attorney filed on December 16, 1998. In view of the mailing of the Notice of Allowance to an incorrect correspondence address, thereby resulting in the practitioner not receiving the Notice of Allowance, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The issue fee remitted on June 19, 2002, is accepted as having been timely paid.

The application file is being forwarded to the Issue Branch for issuance of a patent using the formal drawings submitted on June 19, 2002.

Henry H. Phan

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

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

Paper No. 13

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

FITCH, EVEN, TABIN & FLANNERY
120 S. LASALLE ST., SUITE 1600
CHICAGO, IL 60603

In re Application of
Thomas M. Cowan et al.
Application No. 08/821,890
Filed: March 21, 1997
Attorney Docket No. 60798

ON PETITION

This is a decision on the petition, filed August 9, 2000, under 37 CFR 1.8 and 1.10 which is being treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition is GRANTED.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the instant file.

The file is being forwarded to Technology Center 2700 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-8859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 15

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JUN 1 7 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Application of:
Cowan et al.
Application No. 08/821,890
Filed: March 21, 1997
For: TELEVISION DISTRIBUTIOIN SYSTEM FOR SIGNAL SUBSTITUTION

DECISION ON PETITION TO MAKE SPECIAL

This is a response to the Communication and Request for Examination filed January 21, 2003.

The decision to withdraw the holding of abandonment was granted and mailed September 26, 2000. However, the application has not been examined since the decision. Since the application has been pending for over five years, it will now be treated as special.

For a case to be made special under MPEP § 708.01, (I), the application must be pending for more than five years, including those, which, by relation to a prior United States application, have an effective pendency of more than five years. See MPEP § 707.02.

According to Office records, the instant case 08/821,890 has been pending for well over five years. Since the case is special in accordance with MPEP 708.01(I), no petition is necessary.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application will be forwarded to the Examiner for expedited examination.

Kenneth Wieder
For Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

MAILED

SEP 27 2001

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

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte REX R. CARLSON, RICH SCHNEIDER, SCOTT BOYD and MILES PATCEG

Appeal No. 2001-0258
Application No. 08/821,978

ON BRIEF

Before McCANDLISH, Senior Administrative Patent Judge, COHEN and BAHR, Administrative Patent Judges.

BAHR, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 10-46, which are all of the claims pending in this application.

BACKGROUND

The appellants' invention relates to a gaming machine which accepts wagers from a player and, more particularly, to a video gaming machine in which a second chance means displayed on the video monitor concomitantly along with a first chance means has a

potential effect on an outcome and award for the player (specification, p. 2). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The examiner relied upon the following prior art references of record in rejecting the appealed claims:

Weingardt	5,042,818	Aug. 27, 1991
Chadwick et al. (Chadwick)	5,344,145	Sep. 6, 1994
Netley et al. (Netley)	5,868,618	Feb. 9, 1999 (filed Sep. 30, 1996)[1]

(1) Claims 10, 17 and 18 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellants regard as their invention.

(2) Claims 10, 17-27 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Weingardt in view of Netley.

(3) Claims 11-16, 28-33 and 35-46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Weingardt in view of Netley, as applied to claims 10, 17, 27 and 34, and further in view of Chadwick.

---

[1] Appellants argue that Netley is not available as a prior art reference against appellants' claims because "[i]ts publication date is inappropriate as a reference" (brief, p. 18). Be that as it may, Netley's filing date of September 30, 1996, which precedes the March 20, 1997 filing date of the instant application, qualifies it as prior art against appellants' claims under 35 U.S.C. § 102(e).

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the final rejection and answer (Paper Nos. 7 and 11) for the examiner's complete reasoning in support of the rejections and to the brief (Paper No. 10) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The indefiniteness rejection

The basis of the examiner's indefiniteness rejection of claims 10, 17 and 18 is that "there are simply [too] many **or clauses** in the claims so as to make the claim extremely broad such that almost any piece of prior art with two gambling means could read on the claims" (final rejection, p. 2). In the answer (p. 3), the examiner explains that the limitations within the "or" clauses oppose each other and thus are made indefinite.

The legal standard for definiteness is whether a claim reasonably apprises those of skill in the art of its scope. See In re Warmerdam, 33 F.3d 1354, 1361, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). Recognizing, as the examiner does (answer, p. 5), that the inclusion of alternative terminology in a claim does not necessarily render the claim indefinite (See In re Gaubert, 524 F.2d 1222, 1227, 187 USPQ 664, 667-68 (CCPA 1975), we also share the examiner's view that, in this instance, the use of alternative claim terminology raises an ambiguity as to the scope of the claims. For reasons explained in more detail in our new ground of rejection, infra, in light of appellants' underlying disclosure, including all of appellants' claims, and in light of appellants' arguments (brief, pp. 16-21), the claims are ambiguous as to whether they require a step of or means for selecting between two alternatives offered by the gaming machine or whether the claims are generic in that they cover either of two species[2].

---

[2] The first alternative or species is a second chance means which is linked to the first chance means such that the strategy in playing the first chance means is dependent on the second chance means and the second species is a second chance means which is dissociated from the first chance means such that the strategy in playing the first chance means is independent of the second chance means.

Moreover, with regard to claim 10, it is not clear how the two "or" clauses interact with one another. In particular, it is unclear whether exposing the other chance means in a sequence wherein the other chance means supercedes the altering and makes the player's altering dependent on the other chance means or exposing the other chance means prior to the altering to make the player's altering independent of the other chance means is included within the scope of the claim. Stated differently, it is not certain whether the terms "dependent" and "independent" in the first "or" clause of claim 10 are exclusively associated with the terms "precedes" and "supercedes," respectively.

For the foregoing reasons, the examiner's rejection of claims 10, 17 and 18 under 35 U.S.C. § 112, second paragraph, is sustained.[3] However, because our explanation as to why the alternative terminology in claims 10 and 17 renders the claims indefinite differs somewhat from that articulated by the examiner and in light of our additional observations with respect to the claims on appeal in our new ground of rejection, infra, we denominate our affirmance of the indefiniteness rejection as a

[3] It is not apparent to us why the examiner did not include claims 11-16, which depend from claim 16, or claims 19-26, which depend from claim 17, in this indefiniteness rejection. In any event, we have included these claims in our new ground of rejection, infra.

new ground of rejection pursuant to 37 CFR § 1.196(b) to give appellants an opportunity to respond thereto.

The obviousness rejections

We shall not sustain the examiner's 35 U.S.C. § 103(a) rejections of claims 10-46. For the reasons expressed below in our new ground of rejection pursuant to 37 CFR § 1.196(b), these claims are indefinite. Therefore, the prior art rejections must fall because they are necessarily based on speculative assumption as to the meaning of the claims. See In re Steele, 305 F.2d 859, 862-63, 134 USPQ 292, 295 (CCPA 1962). It should be understood, however, that our decision in this regard is based solely on the indefiniteness of the claimed subject matter, and does not reflect on the adequacy of the prior art evidence applied in support of the rejections.

NEW GROUND OF REJECTION

Pursuant to 37 CFR § 1.196(b), we enter the following new ground of rejection.

Claims 10-46[4] are rejected under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellants regard as their invention.

The recitation in claim 10 of a step of "exposing other chance means[5] to the player in a sequence which makes the player's altering dependent on or independent of the other chance means based on whether the exposing step precedes or supersedes the altering" appears to require a step of selecting between two possible sequences, one in which the step of exposing the other chance means precedes the player's alteration of one of the chance means and another in which the exposing step supercedes the player's alteration of one of the chance means. Similarly, claim 17 recites "strategy sequencing means coupled to said second chance means having enabling means to link or dissociate said first chance means from or to said second chance means

---

[4] While our inclusion of claims 10, 17 and 18 in this new ground of rejection might seem redundant, in light of our decision to sustain the examiner's rejection of these claims, as discussed above, some of our reasons for concluding that claims 10, 17 and 18 are indefinite are so inextricably related to our reasons for concluding that the remaining claims on appeal are indefinite that it makes sense to discuss all of these claims together.

[5] Consistent with appellants' underlying disclosure, which discusses only two chance means, it appears that "other chance means" in claim 10, line 5, and claim 34, line 5, as reproduced in the appendix to appellants' brief, should be "the other [another] of said chance means," in light of the earlier recited step of "displaying to a player more than one chance means" in each of claims 10 and 34.

whereby strategy in playing said first and second chance means are either related or independent." This recitation appears to require structure in the gaming machine for selecting between linked and dissociated first and second chance means. In similar fashion, claim 27 recites "said second chance means having a changeable nature which either displays a characteristic related to or unrelated to said first chance means, whereby if related, influences player strategy regarding said first chance means and, if unrelated, does not alter player strategy." This language implies that the gaming machine is capable of selectively displaying the second chance means so as to be either related or unrelated to the first chance means.

No claim may be read apart from and independent of the supporting disclosure on which it is based. See In re Cohn, 438 F.2d 989, 993, 169 USPQ 95, 98 (CCPA 1971). We are thus required to read the claims in light of the supporting disclosure. Appellants' specification discloses, in Figures 1-4, several arrangements or variations for playing the game. In each of these variations, the first chance means (primary game) is a poker hand. In the first variation (Figure 1), the gaming machine executes the second chance means (secondary game) after the player has selected the cards to hold and discard (the step

of altering the first chance means), thereby having no effect on the player's strategy with respect to the first chance means. In the second variation (Figure 2), the second chance means is executed prior to the players's selection of the cards to hold and discard, such that the player's strategy may be affected by the outcome of the second chance means. In the third variation (Figure 3), the second chance means is executed prior to the player's selection of hold and discard cards and alters the pay table, thereby influencing the player's strategy with regard to the first chance means. In the fourth variation of the game (Figure 4), the second chance means is executed after the player's selection of hold and discard cards and has no impact on the player's strategy with regard to the first chance means. As disclosed in appellants' specification, each of these variations appears to be a separate embodiment. The specification contains no disclosure of combining these variations in a single gaming machine such that, in playing the game, a selection is made among the four variations. This inconsistency between the claim language and the underlying disclosure presents an ambiguity, as discussed above, as to whether each of the above-mentioned independent claims is directed to a genus claim which covers two species or whether a step of or means for selecting between two

available alternatives provided in the gaming machine is required. Claim 34 is ambiguous as to whether the step of exposing implicitly requires selection between two available alternatives (related or unrelated) or merely recites a genus including two species (related and unrelated). Reading claim 34 in light of the circumstances discussed above with regard to the other independent claims and in light of appellants' arguments on pages 16-21 of the brief[6], we are unable to resolve this ambiguity with any certainty.

For the foregoing reasons, we conclude that independent claims 10, 17, 27 and 34, as well as claims 11-16, 18-26, 28-33 and 35-46 which depend therefrom, are indefinite.

CONCLUSION

To summarize, the examiner's rejection of claims 10, 17 and 18 under the second paragraph of 35 U.S.C. § 112, second paragraph, is sustained and denominated a new ground of rejection pursuant to 37 CFR § 1.196(b). Additionally, a new rejection of

[6] In this regard, we note that, in the event that appellants' claims are amended to remove the above-noted ambiguity so as to be of a scope consistent with the arguments on pages 16-21 of appellants' brief, such claims would not appear to be supported by appellants' original disclosure. Accordingly, under such circumstances, the examiner may wish to consider the appropriateness of a written description requirement under 35 U.S.C. § 112, first paragraph.

claims 11-16 and 19-46 under 35 U.S.C. § 112, second paragraph, is entered pursuant to 37 CFR § 1.196(b). The obviousness rejections of claims 10-46 are not sustained.

This decision contains a new ground of rejection pursuant to 37 CFR § 1.196(b), 1203 Off. Gaz. Pat. Office 63, 122 (Oct. 21, 1997)). 37 CFR § 1.196(b) provides that, "A new ground of rejection shall not be considered final for purposes of judicial review."

37 CFR § 1.196(b) also provides that appellants, WITHIN TWO MONTHS FROM THE DATE OF THE 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 CFR § 1.136(a).

AFFIRMED-IN-PART; 37 CFR § 1.196(b)

HARRISON E. McCANDLISH)
Senior Administrative Patent Judge)
)
)
)
) BOARD OF PATENT
IRWIN CHARLES COHEN) APPEALS
Administrative Patent Judge) AND
) INTERFERENCES
)
)
)
JENNIFER D. BAHR)
Administrative Patent Judge)

JB/ki

KRETEN, BLOOM, GAFFEY, GAMSON & LAMB
77 CADILLAC DRIVE
SUITE 245
SACRAMENTO, CA 95825

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BERNHARD KRETEN
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400 CAPITOL MALL, 11TH FLOOR
SACRAMENTO CA 95814

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JUN 04 2009
OFFICE OF PETITIONS

Patent No. 6,802,774	:	
Application No. 08/821,978	:	
Filed: March 20, 1997	:	ON PETITION
Issued: October 12, 2004	:	
Attorney Docket No. 27053-PA	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 20, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued October 12, 2004. The last day of the grace period for paying the 3.5-year maintenance fee was October 12, 2008. 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).

Petitioner submitted $930.00 towards payment of the $980.00 3.5-year maintenance fee. Accordingly, the $50.00 difference will be charged to petitioner's deposit account as authorized.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The petition under 37 CFR 1.182 to expedite is also granted. The $400.00 petition fee will be charged to petitioner's deposit account as authorized.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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	: 6050895	: RECALCULATION of PATENT
Issue Date	: 04/18/2000	: TERM ADJUSTMENT IN VIEW
Application No	: 08/822,019	: OF WYETH
Filed	: 03/24/1997	:
		:

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

MAR 19 2003

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

RONALD I. EISENSTEIN
NIXON PEABODY LLP
101 FEDERAL STREET
BOSTON, MA 02110

#46

In re Application of
Wayne A. Marasco et al
Serial No.: 08/822,033
Filed: March 24. 1997
Attorney Docket No.: 43471-RCE2

: PETITION DECISION

This is a decision on the petition under 37 CFR 1.181, filed February 19, 2003, requesting withdrawal of the finality of an Office action.

BACKGROUND

A review of the pertinent portion of the file history shows that the examiner mailed a Final Office action to applicants on May 28, 2002. The examiner rejected claims 1, 3-5 and 7-16 under 35 U.S.C. 103(a) as unpatentable over Beug et al, Chaudhary et al and Wu et al. Claim 6 was rejected under 35 U.S.C. 103(a) as unpatentable over Beug et al in view of Chaudhary et al and Wu et al further in view of Ryder et al. In response applicants filed a proposed amendment under 37 CFR 1.116 on October 28, 2002 in which claim 1 was proposed to be amended. The examiner refused entry of the amendment in an Advisory Action mailed to applicants on November 18, 2002, indicating that the proposed new limitations would "require a new search and further consideration". In view thereof, applicants filed a Request for Continued Examination (RCE) on November 26, 2002, presenting the same amendment to claim 1 as presented in the unentered amendment which was now entered.

The examiner then mailed a new Final Office action to applicants on February 11, 2003, maintaining the rejections of record and addressing the new limitation presented. Applicants filed this petition on February 19, 2003, requesting withdrawal of the finality of the Office action on the basis that it is improper.

DISCUSSION

Applicants refer specifically to M.P.E.P. 706.07(h) and 706.07(b) regarding when an Office action is properly made Final. Therein it clearly states that when an amendment after final rejection is proposed and denied entry as raising new issues and the same amendment is then entered as a consequence of a RCE filing, the next Office action cannot be a Final Office action. This standards holds whether the same rejection is set forth or not since the examiner must consider the new issues and allow applicant at least one opportunity to reply to any new arguments presented.

DECISION

Applicants' petition is **GRANTED.**

The finality of the last Office action is withdrawn. Applicants remain under obligation to respond to the last Office action within the time period set therein or as may be extended under 37 CFR 1.136(a). The reply will be entered and considered under 37 CFR 1.111.

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) 305-7230.

John Doll
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5814256
Issue Date: September 29,1998
Application No. 08822079
Filed: March 20,1997
Attorney Docket No. 2872L-000366

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

This is a decision on the electronic petition, filed July 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
5814256	1998-09-29	08822079	1997-03-20	CSP-13402/38

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Avery N. Goldstein/	Date (YYYY-MM-DD)	2007-07-24
Name	Avery N. Goldstein	Registration Number	39204

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

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.

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)
5913446	1999-06-22	08823193	1997-03-24	010778.04430

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	/Jon O. Nelson/	Date (YYYY-MM-DD)	2008-03-06
Name	Jon O. Nelson	Registration Number	24566

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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In re Patent No. 5913446
Issue Date: June 22,1999
Application No. 08823193
Filed: March 24,1997
Attorney Docket No. 94.363-I

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

This is a decision on the electronic petition, filed March 6,2008 ,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 6,2008 . 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.

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)
6002669	1999-12-14	08823492	1997-03-25	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/DARRYL C WHITE/	Date (YYYY-MM-DD)	2008-04-14
Name	Darryl C. White		

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. 6002669
Issue Date: December 14,1999
Application No. 08823492
Filed: March 25,1997
Attorney Docket No.

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

This is a decision on the electronic petition, filed April 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 April 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 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. 5885227
Issue Date: March 23,1999
Application No. 08824004
Filed: March 25,1997
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed May 17,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 17,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5885227	1999-03-23	08824004	1997-03-25	P2037 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		
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○	3 ½ year	(1551)	○	3 ½ year	(2551)
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SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

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

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◉ 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	/CatherineCMaresh/	Date (YYYY-MM-DD)	2007-05-17
Name	Catherine C. Maresh, Sr. Patent Counsel	Registration Number	35268

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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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

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ALEXANDRIA, VA 22313-1450
www.uspto.go

MAIL

Paper No. 26

TAREK N FAHMI
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
7TH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025

MAR 0 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:	)	
Hughes et al.	)	**DECISION ON PETITION TO**
Application No.: 08/825,492	)	**WITHDRAW HOLDING OF**
Filed: March 28, 1997	)	**ABANDONMENT**
For: SCHEME FOR MERGING	)	
PARTIALLY FILLED ATM CELLS	)	

This is a decision on the petition filed December 5, 2003, which is being treated as a petition to withdraw holding of abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The petition is **GRANTED**.

This application was held abandoned for failure to take action subsequent to the Board of Patent Appeals and Interference's decision (paper No. 23) mailed August 27, 2002. A Notice of Abandonment was mailed October 24, 2003.

In support of the petition, petitioners provide a copy of a request for CPA, a certificate of express mailing, a non-publication request, a copy of a preliminary amendment filed with the request, a photocopy of payment submitted, a photocopy of the Express Mail receipt and a photocopy of the post card receipt which itemizes the aforementioned items and date stamped as received in the USPTO on October 18, 2002.

The original request for CPA, acknowledged as having been received in the USPTO on October 18, 2002, is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." The fees for the CPA request and amendment, have been received and processed on October 22, 2002.

Petitioner has established that a timely request for CPA was filed and the Abandonment was the result of Office error in not matching the CPA to the application file. The Notice of Abandonment is vacated and the holding of abandonment withdrawn. The Office regrets any inconvenience caused by the mailing of the Notice of Abandonment.

MPEP §1214.07 Reopening of Prosecution states in part:

> 37 CFR 1.198. Reopening after decision.
> Cases which have been decided by the Board of Patent Appeals and Interferences will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 1.196 without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown. Sometimes an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. In view of the fact that the prosecution is closed, the appellant is not entitled to have such amendment entered as a matter of right. <u>However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), the prosecution of the application will be reopened and the amendment will be entered</u>. [emphasis added]

Given Applicants timely responded within the timeframe set forth from the Board's decision with an amendment and a request for CPA (which will be treated as a request for continued examination), the application file is being forwarded to the Technology Center support staff for entry and processing of the request for a CPA and amendment.

Jin Ng, Director
Technology Center 2600
Communications
(703) 305-4800

UNITED STATES 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. 110204

DANIEL R. MCCLURE
Thomas Kayden Horstemeyer & Risley
100 Galleria Parkway, NW
#1500
Atlanta, GA 30339-5948

In re Application of:	:	
Petite	:	
Serial No.: 08/825,576	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Filed: March 31, 1997	:	
Attorney Docket No.: **81607-1010**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed September 28, 2004.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period, which can be extended under 37 C.F.R. § 1.136(a).

The request meets all the above stated requirements. The request was signed by Daniel R. McClure, on behalf of himself and all the attorneys/agents of record. The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed Troutman Sanders, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hien Phan at (571) 272-1606.

Hien Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Troutman Sanders LLP
Bank of America Plaza
600 Peachtree St. NE, Suite 5200
Atlanta, GA 30308-2216

11/8/00

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OFFICE OF PETITIONS
A/C PATENTS

PILLSBURY MADISON & SUTRO LLP
CUSHMAN DARBY & CUSHMAN IP GROUP
NINTH FLOOR
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005-3918

In re Application of
Hee-Chun Lee
Application No. 08/825,582
Filed: March 31, 1997
Attorney Docket No. 224944/P3334

DECISION GRANTING PETITION

This is a decision in response to the "Request for Withdrawal of Notice of Termination..." filed August 5, 1999, which is being treated as a petition requesting that the above-identified application be treated as a proper continuation application under 37 CFR 1.62[1] and accorded a filing date of March 31, 1997. The petition was recently referred to the Office of Petitions for consideration. Any inconvenience caused applicant is regretted.

On June 23, 1997, Initial Patent Examination Division mailed a Notice of Improper FWC Filing stating that the application papers deposited March 31, 1997, were not in compliance with 37 CFR 1.62 since the prior application was abandoned, or proceedings terminated on March 1, 1997. Thereafter, on June 9, 1998, the filing fee of $770, less a $130 handling fee, was refunded to counsel's deposit account. On June 28, 1999, a Notice of Termination was mailed.

In response, on August 5, 1999, the present petition was filed wherein petitioner argues that both notices were mailed in error. Petitioner explains that a timely response to the Notice of Improper Filing was filed and that copendency was properly maintained between the two applications in view of a further petition for extension of time filed in the prior application on March 31, 1997. Petitioner submits, inter alia, a copy of the response filed July 11, 1997, as well as a copy of the post card receipt therefor. Petitioner requests that the application be accorded a filing date under 37 CFR 1.62 and that the petition fee be refunded

The original response filed July 11, 1997, cannot be located. However, PTO records confirm that a petition fee was paid on July 11, 1997. Accordingly, it is conceded that the petition was timely filed on July 11, 1997, and subsequently, misplaced in the Office. It is also acknowledged that in view of the petition for extension of time filed within the third month on March 31, 1997, the prior application would not have become abandoned until after midnight, March 31, 1997 (March 30, 1997 was a Sunday). Therefore, copendency did exist between Application Nos. 08/691,822 and 08/825,582 on March 31, 1997, the date of deposit of Application No. 08/825,582.

The petition is granted. The notices mailed June 20, 1997, and June 28, 1999, respectively, are hereby vacated.

---

[1] 37 CFR §1.62 and §1.60 were deleted from title 37 of the Code of Federal Regulation effective December 1, 1997. See Notice of Final Rule, 62 Fed. Reg. 53132 (October 10, 1997).

The 130.00 petition fee paid on July 11, 1997 is being credited to counsel's deposit account. The previously refunded filing fee of $640 is being charged to counsel's deposit account. The $130 handling fee will be reapplied towards payment of the filing fee, for a total filing fee of $770 received on filing.

The application is being returned to Initial Patent Examination Division for correction of PTO records and the file label to show that this is continuation application under 37 CFR 1.62 of prior Application No. 08/691,822, with a filing date of March 31, 1997.

Thereafter, the application will be forwarded to the Technology Center for examination in due course.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6135534	2000-10-24	08825631	1997-03-31	A20-093-02-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
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○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert C. Freed/	Date (YYYY-MM-DD)	2008-11-17
Name	Robert C. Freed	Registration Number	32569

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
Alexandria, VA 22313-1450
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In re Patent No. 6135534
Issue Date: October 24,2000
Application No. 08825631
Filed: March 31,1997
Attorney Docket No. AGRI-004

:

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

:

This is a decision on the electronic petition, filed November 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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ALEXANDRIA, VA 22313-1450
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Paper No. 29

BELL, BOYD & LLOYD, LLC
P.O. BOX 1135
CHICAGO, IL 60690-1135

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MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of
Iwasaki, Yasuo
Application No. 08/826,744
Filed: April 7, 1997
Attorney Docket No. 112857-042

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 26, 2004, 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 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 October 29, 2003. See MPEP 1214.06. A Notice of Abandonment was mailed on November 19, 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 2600 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

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5864591
Issue Date: January 26,1999
Application No. 08827402
Filed: March 27,1997
Attorney Docket No. 5048.2

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

This is a decision on the electronic petition, filed October 31,2008 ,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 31,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,864,591	1999-01-26	08827402	1997-03-27	P1728USA

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/s/ Vernon W. Francissen /s/	Date (YYYY-MM-DD)	2008-10-31
Name	Vernon W. Francissen	Registration Number	41762

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

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DW 03-01

Paper No. 15

McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

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MAR 28 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Boye, et al.
Application No. 08/827,634
Filed: April 9, 1997
Attorney's Docket No. 22043-0706

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed on October 4, 2000, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of this application.

The petition is **GRANTED**.

The application became abandoned on June 23, 2000 for failure to timely respond to the Final Office Action mailed on March 22, 2000, 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. A Notice of Abandonment was mailed on September 27, 2000 to the attorney-of-record as specified in the original application. Also filed with the instant petition were a Continued Prosecution Application (CPA) Request and a fee transmittal authorizing charging pertinent fees to Petitioner's deposit account. A preliminary amendment was filed on December 8, 2000.

In reviewing the instant petition, it is noted that Petitioner had submitted on February 10, 2000, *inter alia*, a Power Of Attorney By Assignee And Certificate Under 37 CFR §3.73(b) appointing Petitioner as representative in further prosecution of this application, and a request to address all correspondence to Petitioner (Certificate of Transmission by Facsimile under 37 CFR §1.8, dated February 10, 2000). Thus, the above-mentioned Final Office Action apparently was not mailed to the new correspondence address.

The correspondence address for this application has been corrected and is reflected in the Office record. The previous Power of Attorney, filed on November 3, 1997, has been revoked effective February 10, 2000. A Notice Regarding Power Of Attorney, for which a copy is hereby enclosed, has been mailed to the

former attorney-of-record confirming revocation of the prior Power of Attorney. Also enclosed is a Notice Regarding Power Of Attorney confirming acceptance of the new Power of Attorney, filed on February 10, 2000, appointing Petitioner as the new attorney-of-record. The §1.17(m) petition fee for small entity ($620) will be credited to Petitioner's deposit account, No. 50-1189, Docket No. 22043-0706.

This application is being forwarded to Technology Center 2776 for further examination.

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

Attachments:

Notice Regarding Power of Attorney
(confirming revocation of prior Power of Attorney as requested by Assignee, 2/10/2000)

Notice Regarding Power of Attorney
(confirming acceptance of new Power of Attorney, appointed by Assignee on 2/10/2000)

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. 21

MCCUTCHEN, DOYLE, BROWN &
ENERSEN, LLP
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

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AUG 1 5 2002

OFFICE OF PETITIONS

In re Application of
Steven R. Boye et al.
Application No. 08/827,634
Filed: April 9, 1997
Attorney Docket No. 35392.00059

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2002, to revive the above-identified application.

The petition is **GRANTED.**

The instant application became abandoned on January 10, 2002, for failure to submit a timely response to the non-final Office Action mailed on October 10, 2001, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply pursuant to 37 CFR 1.136(a) were obtained during the prescribed time period. Accordingly, the instant application became abandoned and a Notice of Abandonment was mailed on June 7, 2002.

Petitioner has submitted an amendment in response to the non-final Office Action of October 10, 2001 with the present petition.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to Technology Center 2100 for processing of the amendment.

Telephone inquiries related to this decision should be directed to Doris To at (703) 305-4066.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Jerry L. Mahurin
Fulbright & Jaworski LLP
2200 Ross Avenue
Suite 2800
Dallas, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5805622
Issue Date: September 8,1998
Application No. 08827711
Filed: April 8,1997
Attorney Docket No. 381.33485CX1

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

This is a decision on the electronic petition, filed March 6,2008 ,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 6,2008 . 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.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,805,622	1998-09-08	08/827,711	1997-04-08	825-00201

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	/Gary A. Essmann/	Date (YYYY-MM-DD)	2008-03-06
Name	GARY A. ESSMANN	Registration Number	29376

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
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Alexandria, VA 22313-1450
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In re Patent No. 6174498
Issue Date: January 16,2001
Application No. 08827848
Filed: April 11,1997
Attorney Docket No. 83350

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

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

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)
6174498	2001-01-16	08827848	1997-04-11	R0575-700150

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 C. Lando/	Date (YYYY-MM-DD)	2009-03-03
Name	Peter C. Lando	Registration Number	34654

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

JUN 16 2002

Paper No. 31

Application Number: 08/828,005	:	
Filing Date: March 27, 1997	:	
Applicant: Gary Dean Lavon et al.	:	DECISION
For: ABSORBENT ARTICLE HAVING REMOVABLE COMPONENTS	:	

This is a decision on the petition filed on April 9, 2001, under 37 C.F.R. 1.144, for the Commissioner to invoke his supervisory authority and reverse the restriction requirement of November 30, 2000.

The petition is denied.

In review of the application it is clear that there are a large number of distinct species relating to various embodiments of an absorbent article with a different structures securing a removable absorbent member. Furthermore, each of these absorbent members could be constructed from an acquisition layer, distribution layer, first absorbent layer, second absorbent core and/or storage/redistribution layer. Also, each of the above layers could be constructed for a number of different compositions as set forth in the specification.

Therefore, since any given combination of a removable absorbent structure having a specific absorbent member with different materials in each layer could be patent distinct from another removable absorbent structure the election of species of November 30, 2000 is proper.

Applicant is given 1 month from the mailing date of this decision to select a single embodiment for review.

John Kittle
Director, Group 3700
703 308-0873

JEK:jgw

Joan Tucker
The Procter & Gamble Company
11450 Grooms Rd.
Cincinnati, OH 45242

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

Paper No. 30

Joan B. Tucker
The Procter & Gamble Company
Sharon Woods Technical Center
11450 Grooms Road
Cincinnati, OH 45242

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Gary Dean LaVon, et al.
Application No. 08/828,005
Filed: March 27, 1997
Attorney Docket No. 6563

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 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 March 2, 2001, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). One(1) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 3, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Baylor at (703)308-5111, or in her absence, Marianne Morgan at (703)306-3475.

The application file is being forwarded to Technology Center 3700.

Cheryl Baylor
Cheryl Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Marianne Morgan
Marianne Morgan
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 34

MICHAEL L GOLDMAN
NIXON & PEABODY LLP
CLINTON SQUARE
P O BOX 31051
ROCHESTER NY 14603

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JUN 2 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Michael E. ODonnell	:	
Application No. 08/828,323	:	ON PETITION
Filed: March 28, 1997	:	
Attorney Docket No. 19603/10213	:	

This is a decision on the petition, filed by facsimile transmission on June 25, 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 April 2, 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.
The application is being forwarded to Technology Center AU 1652 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

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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 35

Date : June 26, 2002

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of **Application No. 08/828,323**

Applicant(s) : Michael E. O'Donnell
Application No. : 08/828,323
Filed : March 28, 1997

The above-identified application has been assigned Patent No. 6,413,753 and an issue date of July 2, 2002.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 2, 2002:

"All reference to Patent No. 6,413,753 to Michael E. O'Donnell of New York for DNA POLYMERASE III HOLOENZYME appearing in the Official Gazette of July 2, 2002 should be deleted since no patent was granted."

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

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07

UNITED STATES 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. 4

N. PAUL FRIEDERICHS
ANGENEHM LAW FIRM LTD
P.O.BOX 48755
COON RAPIDS, MN 55448

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OFFICE OF PETITIONS

In re Application of
William D. Morgan
Application No. 08/828,330
Filed: March 28, 1997
Attorney Docket No. I-852-002

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 3, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 7, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 3621 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language th reon: "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
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N.PAUL FRIEDERICHS
ANGENEHM LAW FIRM LTD
P.O.BOX 48755
COON RAPIDS, MN 55448

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of
William D. Morgan
Application No. 08/828,330
Filed: March 28, 1997
Attorney Docket No. I-852-002

ON PETITION

This is a decision on the petition, filed March 17, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed April 4, 2005. A Notice of Abandonment was mailed on November 23, 2005. In response, on March 17, 2006, the present petition was filed, as well as an Amendment and a Revocation and Power of Attorney.

The Revocation and Power Attorney filed March 17, 2006 is **not** acceptable, since the Power of Attorney is from an assignee but the Certificate required by 37 CFR 3.73(b) does not include the Reel and Frame number of the assignment from the inventor of the application. However, in accordance with 37 CFR 1.34(a), the signature of Mark T. Garrett appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Garrett desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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

The petition is GRANTED.

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

The application file is being forwarded to Technology Center AU 3635 for consideration of the amendment and the petition to correct inventorship filed March 17, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARK T. GARRETT
FULLBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE., SUITE 2400
AUSTIN, TX 78701

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/26/2010

Applicant	: JOHN M. EGNOR	: DECISION ON REQUEST FOR
Patent Number	: 7581623	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 08/828,560	: OF WYETH
Filed	: 03/31/1997	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6714975
Issue Date: March 30,2004
Application No. 08829631
Filed: March 31,1997
Attorney Docket No. YO997-022

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

This is a decision on the electronic petition, filed May 28,2009 ,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 May 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.

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)
6714975	2004-03-30	08/829,631	1997-03-31	4630/033 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	/Tiberiu Weisz/	Date (YYYY-MM-DD)	2009-05-28
Name	Tiberiu Weisz	Registration Number	29876

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.

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

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.

Paper No.17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GEORGE COMBS
and KENNETH G. MCDANIEL

MAILED

AUG 2 1 2002

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

Appeal No. 1999-2229
Application 08/832,167

ON BRIEF

Before GARRIS, LIEBERMAN and TIMM, Administrative Patent Judges.

GARRIS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the refusal of the examiner to allow claims 1-27, 30 and 31 as amended subsequent to the final rejection. These are all of the claims remaining in the application.

The subject matter on appeal relates to a composition which comprises an oleophilic polyoxyalkylene monoether of a particular structure and less than 6 mole percent, based on the amount of monoether, of alkoxylated unsaturates and/or less

than about 5 mole percent, based on the amount of monoether, of polyoxyalkylene diols. The appealed subject matter also relates to a method of using such a composition. This appealed subject matter is adequately illustrated by independent claim 13 which reads as follows:

13. A composition which comprises:

(a) an oleophilic polyoxyalkylene monoether of the structure:

$$Z—(A)_n—OH$$

wherein A is an oxyalkylene group, Z is a hydrocarbyl residue selected from the group consisting of C_4-C_{60} alkyl, aryl, and aralkyl, and n, which is the average number of oxyalkylene groups, is within the range of about 2 to about 500; and

(b) less than about 6 mole percent, based on the amount of monoether, of alkoxylated unsaturates.

The references set forth below are relied upon by the examiner as evidence of obviousness:

Manary	3,615,295	Oct. 26, 1971
Polss	3,901,665	Aug. 26, 1975

Under 35 USC § 103(a), claims 1-3, 5-20, 22, 24, 26, 30 and 31 are rejected as being unpatentable over Manary, and claims 1, 2, 4-18, 21, 23, 25, 27, 30 and 31 are rejected as being unpatentable over Polss.

Although the appealed claims including the independent claims vary widely in scope and involve different categories of invention, the appellants affirmatively state that "[t]he claims on appeal shall stand or fall together" (Brief, page 3). Accordingly, in assessing the merits of the above noted rejections, we will focus upon independent composition claim 13 as representative of the claims involved in these rejections. See 37 CFR § 1.192(c)(7)(8) (1998) and Ex parte Schier, 21 USPQ2d 1016, 1018 (Bd. Pat. App. Int. 1991). Claim 13 has been selected as the representative claim because it is at least one of the broadest, if not the broadest, appealed claim.

We refer to the Brief and the Reply Brief and to the Answer for a complete exposition of the opposing viewpoints expressed by the appellants and by the examiner concerning the aforementioned rejections.

OPINION

For the reasons set forth in the Answer and below, we will sustain each of the rejections before us on this appeal.

The issues pivotal for resolution of this appeal have been reasonably well crystallized on the subject appeal record. It is the examiner's position that Manary or Polss would have suggested component (a) of the appellants' claimed composition, and the appellants do not argue otherwise. However, the appellants vigorously disagree with the examiner's determination that, since both Manary and Polss are silent

regarding the presence of claim component (b), these prior art compositions must satisfy the claim requirement concerning this component (i.e., that the composition comprises less than about 6 mole percent alkoxylated unsaturates and/or less than about 5 mole percent polyoxyalkylene diols).

In this last mentioned regard, the appellants point out that both Manary and Polss teach that their compositions may be manufactured using conventional base-catalyzed methods. According to the appellants, such base-catalyzed methods will inherently and inevitably produce impurities in the form of the above noted unsaturates and diols at concentrations higher than permitted by the appealed claims. As support for this position, the appellants refer to their specification disclosure and to the several references attached to their Brief.

Initially, we emphasize that it is appropriate for the appellants to bear the burden of proving that the seemingly identical or substantially identical composition products of Manary or Polss do not actually possess the low-impurity characteristic of the here claimed composition product. The fairness of such a burden allocation is evidenced by the inability of the Patent and Trademark Office to manufacture products or to obtain and compare prior art products. See In re Best, 562 F.2d 1252, 1255, 195 USPQ 430, 433-34 (CCPA 1977).

We have carefully considered the evidence proffered by the appellants in support of their position. From our perspective, however, this evidence as a whole tends to support the examiner's view, namely, that the "compositions of Manary and Polss do not inevitably contain polyoxyalkylene diols and alkoxylated unsaturates in an amount greater that [sic, than] the claims [permit]" (Brief, page 5). Our reasons for this determination follow.

We cannot agree with the appellants that their position is supported by the subject specification disclosure. On the contrary, Table 1 on specification page 10 reflects that inventive monoether E of Example No. 5 included a quantity of C_3 olefin (i.e., alkoxylated unsaturates) within the here claimed range despite the fact that a KOH catalyst was used (i.e., the reaction was base-catalyzed in correspondence with the disclosures of Manary and Polss). Similarly, a number of the references attached to the appellants' Brief disclose methods of making monoethers of the type under consideration having reduced unsaturation via a base-catalyzed reaction. Specifically, base-catalyzed reactions which yield reduced unsaturation are disclosed in U.S. Patent No. 5,114,988 and U.S. Patent No. 5,114,619. While the other references attached to the appellants' Brief effect a reduction in unsaturation via other types of catalyst, they certainly do not negative the teachings of the aforementioned patents or otherwise support the appellants' sweeping proposition that all base-catalyzed reactions for

making the monoethers under consideration will inherently and inevitably produce impurities at concentrations higher than permitted by the appealed claims.

In short, a number of the teachings proffered by the appellants as evidence supporting their position in fact militate against it by clearly evincing that the prior art includes a number of base-catalyzed reactions which yield the compositions under review having low levels of alkoxylated unsaturates as required by appealed independent claim 13. To this extent, the evidence proffered by the appellants vitiates their position that base-catalyzed reactions inherently and inevitably produce these unsaturates at quantities higher than permitted by the claim under consideration.[1]

Under the circumstances recounted above, it is our ultimate determination that the appellants have failed to carry their burden of proving that the respective compositions of Manary and Polss do not actually possess the low-impurity characteristic of the here claimed compositions. In re Best, 562 at 1255, 195 USPQ at 433-34. It follows that we will sustain each of the § 103 rejections advanced by the examiner on this appeal.

The decision of the examiner is affirmed.

---

[1] Indeed, a number of the references attached to the appellants' Brief may anticipate or render obvious compositions of the type defined by appealed claim 13. This possibility should be considered by the appellants and the examiner in any further prosecution that may occur.

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

AFFIRMED

BRADLEY R. GARRIS Administrative Patent Judge	)
	) BOARD OF PATENT
PAUL LIEBERMAN Administrative Patent Judge	) APPEALS AND) INTERFERENCES
CATHERINE TIMM Administrative Patent Judge	)

BRG:yrt

Appeal No. 1999-2229
Application No. 08/832,167

cc: BAYER CORPORATION
100 Bayer Road
Pittsburgh, PA 15205-9741

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

NIXON & VANDERHYE
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201-4714

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JAN 16 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Stephen D. Wolpe et al. :
Application No. 08/832,443 :
Filed: April 3, 1997 :
Attorney Docket No. 1331-222 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 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 November 24, 1999, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 25, 2000.

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

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

CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO IL 60606

MAILED

OCT 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Jones et al.	:	
Application No. 08/833095	:	ON PETITION
Filing or 371(c) Date: 04/04/1997	:	
Patent Number: 5,966,456	:	
Issue Date: 10/12/1999	:	
Attorney Docket Number: CUMM:183	:	

This is a decision on the "Petition for Correction of Inventorship Under 37 C.F.R. 1.324," and "Submission of the Rules Under §1.183 for Statements of Deceased and Unavailable Inventors Under §1.324(B)(1)," filed September 22, 2003, and on the Supplemental Petition for Correction of Inventorship Under 37 C.F.R. 1.324," filed October 31, 2003.

The petition is **DISMISSED as moot**.

The application as-filed listed two inventors: William J. Jones and Douglas U. Mennie. Petitioner files the present petition and supplement requesting correction of inventorship to add as inventors Donald E. Raterman, Bradford T. Graves, Lars R. Stromme and Aaron M. Bauch.

Petitioner files statements from Evelyn Raterman (widow of the late Donald E, Raterman), Bradford T. Graves, Lars R. Stromme (on behalf of unavailable inventor, Lars R. Stromme), and Aaron M. Bauch, along with a statement from current named inventors William J. Jones and Douglas U. Mennie.

Petitioner provides that a statement from Donald E. Raterman cannot be obtained because he is deceased, and that a statement from Lars R. Stromme cannot be obtained because he is unavailable.

Applicable Law, Rules and MPEP in effect in September and October, 2003

35 U.S.C. § 256. Correction of named inventor, stated:

> Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his part, the Director may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error. The error of omitting inventors or naming persons who are not inventors shall not invalidate the patent in which such error occurred if it can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Director shall issue a certificate accordingly. In requesting the Office to effectuate a court order correcting inventorship in a patent pursuant to 35 U.S.C. 256, a copy of the court order and a Certificate of Correction under 37 CFR 1.323 should be submitted to the Certificates of Corrections Branch. (Emphasis supplied).

37 CFR § 1.324. Correction of inventorship in patent, pursuant to 35 U.S.C. 256, stated:

> (a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his or her part, the Commissioner may, on petition, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A petition to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a motion under § 1.634.
> (b) Any petition pursuant to paragraph (a) of this section must be accompanied by:
> (1) Where one or more persons are being added, a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;
> (2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;
> (3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and
> (4) The fee set forth in § 1.20(b).

37 CFR § 1.183, Suspension of rules, stated

> In an extraordinary situation, when justice re-quires, 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 MPEP 1481 provided:

> the statutory basis for corrections of inventorship in applications under 37 CFR 1.48. 35 U.S.C. 256 requires "on application of all the parties and assignees," while 35 U.S.C. 116 does not have the same requirement. Under 35 U.S.C. 116 and 37 CFR 1.48, waiver requests under 37 CFR 1.183 may be submitted (see, e.g., MPEP § 201.03, under the heading "Statement of Lack of Deceptive Intention"). This is not possible under 35 U.S.C. 256 and 37 CFR 1.324. In correction of inventorship in a nonprovisional application under 37 CFR 1.48(a), the requirement for a statement by each originally named inventor may be waived pursuant to 37 CFR 1.183; however, correction of inventorship in a patent under 37 CFR 1.324 requires petition of all the parties, i.e., originally named inventors and assignees, in accordance with statute (35 U.S.C. 256) and thus the requirement cannot be waived.

Analysis/conclusion

Suspension of the rules under 37 CFR 1.183 may be granted for any requirement of the regulations which is not a requirement of the statutes. In this instance, 35 U.S.C. 256 requires that the application be made by all of the parties and assignees. Petitioner provides that a statement from Donald E. Raterman cannot be obtained because he is deceased, and that a statement from Lars R. Stromme cannot be obtained because he is unavailable. Accordingly, the petition under 37 CFR 1.183 is dismissed as moot.

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

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

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

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

Telephone inquiries concerning this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 34

PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

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AUG 1 3 2004

OFFICE OF PETITIONS

In re Application of
Small
Application No. 08/833,106
Filed: June 14, 2000
Attorney Docket No. 74892B/MGB

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed May 28, 2004, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.

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

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

A decision by the Board of Patent Appeals and Interferences ("BPAI") was mailed on January 15, 2004, affirming the examiner.

Office records indicated that no papers were received from applicant within the two months following the decision and no claims had been allowed. Therefore, a Notice of Abandonment was mailed on May 6, 2004.

Petitioner contends a Request for Continued Examination and an amendment were timely submitted.

An applicant may file a RCE and submission after a Board decision, but prior to the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. In such a case, the appeal is withdrawn and prosecution is reopened pursuant to 37 CFR 1.114.

The only issue present is: were the RCE and submission timely submitted?

Petitioner has submitted a copy of a return postcard receipt indicating that the RCE and amendment were received on March 15, 2004.[1] Petitioner has supplied a copy of the missing items and provided a showing in compliance with 37 CFR 1.8(b). A review of Office financial records indicates the $770 RCE fee was charged to a credit card based on a paper received on March 15, 2004.

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Although the original copy of the RCE and amendment can not be located, the evidence establishes that the documents were timely filed.

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

Since the petition has been granted under 37 CFR 1.181, the petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee has not been charged to petitioner's deposit account.

The file is being forwarded to Technology Center Art Unit 2612 to correct Office records to indicate the application is not abandoned. The file will then be forwarded to the examiner for consideration of the RCE and amendment.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES
PATENT AND
TRADEMARK OFFICE

#22

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
PO BOX 1450, ALEXANDRIA, VA 22313-1450
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JUN 19 2003

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

In re Application of	:
Jeffrey A. Robl	:
Serial No.: 08/833,172	: WITHDRAWAL OF ABANDONMENT
Filed: April 4, 1997	:
Attorney Docket No.: HA6870A	:

This is in response to an oral request to withdraw the abandonment of the above identified application.

A review of the file history shows the Board of Patent Appeals and Interferences mailed a decision affirming the examiner's rejection of all claims on appeal. In due course the examiner mailed a Notice of Abandonment to applicants on April 9, 2003. The mailing of this Notice was in error as a claim not on appeal had been indicated as allowable by the examiner. In view thereof 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.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 15

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HOPKINTON MA 01748-9103

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NOV 1 5 2002

OFFICE OF PETITIONS

In re Application of
Eitan Bachmat
Application No. 08/833,410
Filed: April 4, 1997
Attorney Docket No. 96-108

ON PETITION

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(b), filed September 5, 2002 (Certificate of Mailing dated September 16, 2001).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the required issue fee as required in the Notice of Allowance and failure to timely file corrected formal drawings as required in the Notice of Allowability, both mailed December 17, 1999. Both notices set a statutory period of three (3) months from the mailing date of each notice for fee transmittal and for submitting formal drawings. The three month period for reply was not extendable. No issue fee having been received and no corrected formal drawings filed, the above-identified application became abandoned on March 18, 2000. A Notice of Abandonment was mailed on June 22, 2000.

With the instant petition, petitioner paid the petition fee, filed a Request for Continued Examination (RCE) with the required submission in the form of an Information Disclosure Statement (IDS), and made the proper statement of unintentional delay.

It is noted that payment of the issue fee is required "as a condition [for] reviving an application abandoned or patent lapsed for failure to pay the issue fee."[1] While petitioner could have replied to the Notice of Allowance with just an RCE **before the application became abandoned**, once the application is abandoned the issue fee must accompany the RCE. Because petitioner included in his petition an authorization to charge any additional required fees to his deposit account, the issue fee of $1,280 has been charged to Deposit Account 05-0889.

In addition, the petition fee of $1,280 and the RCE fee of $740 have also been charged to petitioner's deposit account, as authorized.

The Associate Power of Attorney filed on May 19, 2002 has been entered and made of record. Future correspondence concerning this application will be forwarded to the above address of record.

---

[1] MPEP 711.03(c)(III)(A)(1).

The application file is being forwarded to Technology Center 2700 for consideration of the RCE and the submission under 37 CFR 1.114, an IDS filed September 5, 2002.

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

Cliff Congo

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 43

THEODORE J BIELEN JR
BIELEN PETERSON & LAMPE
1991 N CALIFORNIA BLVD
SUITE 720
WALNUT CREEK CA 94596

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JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Webber, Robert	:	
Application No. 08/833,506	:	ON PETITION
Filed: April 7, 1997	:	
Attorney Docket No. 14291	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed October 30, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 31, 2003. A Notice of Abandonment was mailed June 4, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

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

The instant petition lacks item (1). Although an RCE, along with the submission, was properly submitted, the fee was incorrect. Petitioner only submitted $2050.00 in total, $1330.00 of which is for payment of the petition fee. The large entity RCE fee was $770.00 at the time the petition was filed. However, the RCE fee is determined by the date it is submitted in total. The large entity fee is now $790.00. Accordingly, an additional $70.00 is required to revive the above-identified application.

The Finance Office attempted to collect the additional money from petitioner's deposit account. However, there does not appear to be enough funds in the account to cover the amount stated aboe.

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

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

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

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. 48

THEODORE J. BIELEN JR.
1390 WILLOW PASS ROAD
SUITE 1020
CONCORD CA 94520

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Webber, Robert	:	
Application No. 08/833,506	:	ON PETITION
Filed: April 7, 1997	:	
Attorney Docket No. 14291	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 15, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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 1600 for processing of the Request for Continued Examination under 37 CFR 1.114 previously filed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

#41

In re Application of
INVENTOR Michael Dobbins
Application No. 08/833,620
Filing date: 9/8/2000

: DECISION ON
: PETITION

This is in response to the petition to restart or reset the period of reply to the Office action, filed on 11/27/01. The petition is granted.

The period for reply to the prior Office action is reset to run from 1/16/02, the date that applicant received the delayed correspondence.

Telephone inquiries regarding this decision should be directed to the undersigned at 308-3837.

Stanley Silverman
SPE
art unit 1731/technology center 1700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-02-08

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: **08/833620** Patent No.: **RE39535**

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**.

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: There is no indication where in the record the error is located + Examiner could find none. It is Also Unclear Where in Cols 1 and 2 the material should be Added Col 1 + 2 ~~relates~~ have the "Background of the Invention" Section.

_____ 1791
SPE **Art Unit**

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

February 7, 2000

Paper # 5

Amster, Rothstein & Ebenstein
Attorneys for Applicants
90 Park Avenue
New York, New York 10016

In re Application of
Bruce D. Gaynor, et al.
Application No. 08/833,838
Filed: April 10, 1997
Attorney Docket No. 96700/451

DECISION ON PETITION

This is a decision on the petition filed September 17, 1999, which, for reasons indicated below, is being treated as a petition to withdraw the holding of abandonment in the instant application.

The petition is granted.

This application was held abandoned for failure to timely respond to the Office action mailed October 6, 1997. However the holding of abandonment was improper since the Office received, on December 3, 1997 a check in the amount of $953 to cover the basic filing fee, fee for additional claims, and surcharge for the above mentioned application. Unfortunately, this information was not associated with the file until after the mailing of the Notice of Abandonment. Since the response was timely filed, the holding of abandonment has been withdrawn and the application restored to pending status.

In view of the above it is clear that you have complied with all of the requirements for the filing of this application; therefore, a filing receipt will be issued promptly.

Betty L. Robinson
Office of Initial Patent Examination

UNITED STATES 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. 6054705
Issue Date: April 25,2000
Application No. 08834089
Filed: April 14,1997
Attorney Docket No.

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

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

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)
6054705	2000-04-25	08834089	1997-04-14	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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	/Lewis Carroll/	Date (YYYY-MM-DD)	2008-05-13
Name	Lewis Carroll		

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.

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)
5820381	1998-10-13	08834597	1997-04-07	1993-9 (AMK)

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alan M. Kagen/	Date (YYYY-MM-DD)	2007-05-09
Name	Alan M. Kagen	Registration Number	36178

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. 5820381
Issue Date: October 13,1998
Application No. 08834597
Filed: April 7,1997
Attorney Docket No. 1993-9

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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DIW Feb-06

TRIAL & TECHNOLOGY LAW GROUP
545 MIDDLEFIELD ROAD SUITE 220
MENLO PARK CA 94025

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FEB 23 2006

OFFICE OF PETITIONS

In re Patent No. 6,134,118	:	
Issued: 17 October, 2000	:	
Application No. 08/834,798	:	DECISION ON PETITION
Filed: 3 April, 1997	:	
For: CONDUCTIVE EXPOXY FLIP-	:	
CHIP PACKAGE AND METHOD	:	

This is a decision on the petition under 37 CFR 1.378(b),[1] filed on 27 June, 2005,[2] to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(f).

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[1] A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must be include

(1) the required maintenance fee set forth in § 1.20(e) through (g);
(2) the surcharge set forth in §1.20(I)(1); and
(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

[2] Although a petition form was filed on 28 March, 2005, the papers filed on that date were not accompanied by the required maintenance fee and surcharge payment.

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 patent issued on 17 October, 2000. The first maintenance fee could have been paid during the period from 17 October, 2003, through 19 April, 2004, or, with a surcharge during the period from 20 April through 18 October, 2004. The patent expired at midnight on 18 October, 2004, for failure to timely pay the first maintenance fee.

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

Petitioners must establish that the person who signed the petition form, William Kuncz, is authorized to sign on behalf of the patentee, assignee, or other party in interest.

Petitioner should complete the attached Statement Under 37 CFR 3.73(b) and return it with a properly signed petition under 37 CFR 1.378(b) or (c).

Petitioner William K. Kuncz, CFO, of assignee Vertical Circuites, Inc., asserts, in pertinent part:

> In 2003, Vertical Circuits, Inc., a small entity, elected to take over the payment of our patent maintenance fees, which were previously handled by our patent attorney, in the interest of control and managing company expenses. At that time, our accounting system could not schedule payments four years into the future, so an alternate method was developed using Microsoft Outlook. The initial conversion of our seventeen patent fee schedules and the complexity of the schedules themselves caused the data to be erroneously entered for the above patent resulting in a scheduled payment that was beyond the four year due date.

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".[3] 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." [4]This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."[5] 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.[6] 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.[7] 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.[8] In view of In re Patent No. 4,409,763,[9] 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 satisfy the showing required to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

With regard to period (1), above, 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;

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[3] 35 U.S.C. § 41(c)(1).

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

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

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

[7] 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).

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

[9] 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).

(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.[10]

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) Petitioner 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.

At the outset, it is noted that petitioner have not provided statements from any of the persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

Additionally, the statements presented in the petition lead to a conclusion that petitioners did not have a reliable tracking system in place at the time they attempted to docket the maintenance fee for the present patent, and that petitioners were unable to docket the maintenance fee in a reliable tracking system.

---

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

Rather than unavoidable delay, the showing of record is that petitioner lacked a reliable system for tracking and paying maintenance fees. The showing of record is that petitioners were in the process of attempting to establish a tracking system at the time this patent was docketed, but that no system was yet in place. As such, while this is an unfortunate situation, it does not rise to the level of unavoidable delay.

In summary, the showing of record is inadequate to establish unavoidable delay. Petitioner has provided no evidence to substantiate a claim of docketing error. Rather, the showing of record is that petitioner failed to take adequate precautions to ensure that maintenance fees were timely paid in the event of a failure of the computer docketing system. Petitioner's preoccupation with other matters which took precedence over payment of the maintenance fees for the above-identified patent constitutes a lack of diligence, not unavoidable delay.[11] As petitioner has not shown that it exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.[12]

Petitioners should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee 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 address noted below.

Petitioner may wish, in the alternative, to request reconsideration in the form of a petition under 37 CFR 1.378(c), requesting that the unintentionally delayed payment of a maintenance fee be accepted. A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be filed within twenty four months from the end of the six month grace period (e.g., the expiration date of the patent and be accompanied by (1) a verified statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, (3) payment of the $1,640.00 surcharge (the $700.00 surcharge already paid may be credited thereto leaving a balance due of $940.00) set forth in 37 CFR 1.20(i)(2). The statement can be verified by using the attached petition form which includes a declaration according to 37 CFR 1.68.

---

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

[12] See note 4, supra.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the patent was expired until the filing of the petition to reinstate under 37 CFR 1.378(c), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.378(c).

The address in the petition is different than the correspondence address of record in the file. A courtesy copy of this decision will be mailed to petitioner. All future correspondence, however, will be mailed solely to the correspondence address of record. A change of correspondence address form is enclosed for petitioner's convenience. If the change of correspondence address is to be filed by an assignee, the assignee must establish its right to take action in accordance with 37 CFR 3.73. If petitioner desires 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.

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

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

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

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

Telephone inquiries should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Vertical Circuits, Inc.
William K. Kuncz
10 Victor Square, #100
Scotts Valley CA 95066

Encl: PTO/SB/66
PTO/SB/96
PTO/SB/123
Privacy Act Statement

PTO/SB/66 (10-05)
Approved for use through 05/31/2006. 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))

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.

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)
☐ $ _____	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.

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._____.

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.

PTO/SB/96 (12-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No./Control No.: _____ Filed/Issue Date: _____

Entitled: _____

_____, a _____
(Name of Assignee) (Type of Assignee: corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or a true copy of the original assignment is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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 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.
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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.

PTO/SB/123 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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CHANGE OF CORRESPONDENCE ADDRESS
Patent

Address to:
Mail Stop Post Issue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Patent Number	
Issue Date	
Application Number	
Filing Date	
First Named Inventor	
Attorney Docket Number	

Please change the Correspondence Address for the above-identified patent to:

☐ The address associated with Customer Number:

OR

☐ **Firm *or* Individual Name**

Address

City | **State** | **ZIP**

Country

Telephone | **Email**

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

This form will not affect any "fee address" provided for the above-identified patent. To change a "fee address" use the "Fee Address Indication Form" (PTO/SB/47).

I am the:

☐ Patentee.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

Signature

Typed or
Printed Name

Date | Telephone

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.33. 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 3 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: Mail Stop Post Issue, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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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 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
DW Nov-06

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NOV 3 0 2006

OFFICE OF PETITIONS

VERTICAL CIRCUITS, INC.
10 VICTOR SQ #100
SCOTTS VALLEY CA 95066

In re Patent No. 6,134,118	:	
Issued: 17 October, 2000	:	
Application No. 08/834,798	:	DECISION ON PETITION
Filed: 3 April, 1997	:	
For: CONDUCTIVE EPOXY FLIP-CHIP	:	
PACKAGE AND METHOD	:	

This is a decision on the petition under 37 CFR 1.378(c),[1] filed on 27 September, 2006, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued on 17 October, 2000. The window for payment of the first maintenance fee installment with a surcharge closed on 18 October, 2004. 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).

It is noted that a petition under 37 CFR 1.378(b) was filed on 27 June, 2005, and was dismissed on 23 February, 2006. As petitioner has now submitted $1640.00 for the surcharge under 37 CFR 1.378(c), the additional surcharge will be refunded.

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.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

(1) The required maintenance fee set forth in § 1.20(e) through (g);
(2) The surcharge set forth in § 1.20(i)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 28

KENDREW H. COLTON
FITCH EVEN TABIN & FLANNERY
1801 K STREET NW
SUITE 401L
WASHINGTON, DC 20006-1201

COPY MAILED

SEP 30 2002

OFFICE OF PETITIONS

In re Application of
Alan A. Rubin
Application No. 08/835,482
Filed: April 8, 1997
Title: TREATMENT OF PARKINSON'S DISEASE AND RELATED DISORDERS BY NOVEL FORMULATIONS OF THE COMBINATION CARBIDOPA-LEVODOPA

DECISION ON PETITION

This is a decision on the petition filed on May 24, 2002, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner with respect to the decision by the Board of Patent Appeals and Interferences dated January 17, 2002. The period for seeking court review of the decision expired with no action taken and there are no allowed claimed. As such, the-above-identified application became abandoned on March 18, 2002. A Notice of Abandonment was mailed on May 9, 2002.

The petitioner has met the requirements for a grantable petition under 37 C.F.R. § 1.137(b). With the instant petition, the petitioner filed a response (a continued prosecution application (CPA) under § 1.53(d)) to the decision of the Board of Patent and Appeals and Interferences; paid the petition fee; and made the required statement of unintentional delay. As this utility application was filed after June 8, 1995, no terminal disclaimer is required on petition for revival.

The revocation of prior power of attorney and change of correspondence address submitted on petition is acknowledged and made of record. Petitioner is advised, however, that this request did not include an appointment of power of attorney. Thus, the address of record is that of the Fitch Even law firm, but no attorney is of record in this application.

The application file is being forwarded to Technology Center 1615 for consideration of the CPA.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,091,253	2000-07-18	08/835,718	1997-04-10	30119/00901

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 J. Marcin/	Date (YYYY-MM-DD)	2008-09-30
Name	Michael J. Marcin	Registration Number	48198

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. 6091253
Issue Date: July 18,2000
Application No. 08835718
Filed: April 10,1997
Attorney Docket No. 237659

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

This is a decision on the electronic petition, filed September 30,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 30,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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Paper No.

B. J. SADOFF
NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Geert Maertens et al
Application No. 08/836,075
Filed: April 22, 1997
Attorney Docket No. 2752-31

ON PETITION

This is a decision on the petition, filed January 26, 2001, 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).

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center 1600 for processing of 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

03 JUN 2002

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Patricia A. Kammerer
Arnold White & Durkee
PO Box 4433
Houston, TX 77210-4433

In re Application of MAERTENS, Geert, et al. U.S. Application No.: 08/836,075 PCT Application No.: PCT/EP95/04155 International Filing Date: 23 October 1995 Priority Date: 21 October 1994 Attorney Docket No.: INNS:04/KAM For: NEW SEQUENCES OF HEPATITIS C VIRUS GENOTYPES AND THEIR USE AS PROPHYLACTIC, THERAPEUTIC AND DIAGNOSTIC AGENTS	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on Applicants' "Request For Correction of Filing Receipt," which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On 23 October 1995, applicants filed international application PCT/EP95/04155, which claimed a priority date of 21 October 1994 and which designated the United States. A copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB") on 05 May 1995. On 17 May 1996, a demand for international preliminary examination was filed, prior to nineteen months from the priority date. As such, the deadline for entering the national stage in the United States was 21 April 1997.

On 21 April 1997, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee and a declaration.

On 16 June 1997, a Notification of Acceptance (Form PCT/DO/EO/903) was mailed.

On 19 October 2001, a Filing Receipt was mailed.

On19 March 2002, applicants filed the instant request seeking a corrected filing receipt.

DISCUSSION

The Notification of Acceptance lists date of completion of the requirements under 35 U.S.C. §371 as 21 April 1997. A review of the file indicates that this is correct. The filing receipt

lists the "filing date" as 22 April 1997. The filing date on the filing receipt is the date of completion of the requirements under 35 U.S.C. §371. MPEP §1895.01(A). As earlier stated, the 371 requirements were completed on 21 April 1997.

Additionally, the filing receipt lists only the city of residence of inventor Geert Maertens, rather than the city and county. The country of residence is Belgium.

CONCLUSION

The Filing Receipt mailed 19 October 2001 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a new filing receipt.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 703-305-0455
Facsimile: 703-308-6459

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
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MAR 19 2003

#41

B. J. SADOFF
NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

In re Application of	:
Geert Maertens et al	:
Serial No.: 08/836,075	: PETITION DECISION
Filed: April 21, 1997	:
Attorney Docket No.: 2752-31	:

This is a decision on the petition under 37 CFR 1.181, filed December 19, 2002, requesting removal of an improper restriction requirement.

BACKGROUND

A review of the pertinent portion of the file history shows that this application was allowed and the Issue Fee was paid prior to September, 1999. Through error the application was held abandoned in August, 2000, and the abandonment rescinded in December, 2000. In January, 2001, a petition under 37 CFR 1.313 accompanied by an RCE request and an IDS statement was filed. The petition was granted on January 26, 2001, which was too late to prevent publication of the patent, per se. By Notice in the Official Gazette indication was given that no patent had issued for the assigned number. The application was then returned to the examiner for further action.

Subsequently several additional IDS statements were submitted as well as an amendment. The examiner mailed an Office action to applicants on November 19, 2002, setting forth a two way restriction requirement, as follows:

> Group I, claims 75-84, drawn to unique polypeptides from differing HCV genomes;
> Group II, claim 85, drawn to a purified polypeptide.

In addition, the election of a single amino acid sequence was required irrespective of whichever group was elected. Applicants replied on December 19, 2002, electing Group I and SEQ ID NO. 43 with traverse. Applicants also filed this petition to have the restriction requirement withdrawn.

DISCUSSION

Applicants argue that all of the claims currently active in the application were prosecuted and allowed by the same examiner in June, 1999. Applicants have amended the claims only to cancel one dependent claim and to remove some of the sequence identifiers from the claims so as to avoid newly submitted prior art. Applicants argue that since all of the claims were previously considered together they should not be divided now. Applicants basically argue that the Office has been inconsistent in prosecution of this application and that the restriction requirement should be withdrawn.

It is also noted that this application is the National Phase filing of PCT/EP95/04155. As such the making of a restriction requirement solely under 35 U.S.C. 121 without consideration of PCT Rule 13 provisions is improper. As only RCE papers have been filed this application remains a National Phase application.

DECISION

Applicants' petition is **GRANTED.**

The restriction requirement of the last Office action is withdrawn. The application will be forwarded to the examiner for consideration of the response filed December 19, 2002.

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) 305-7230.

John Doll
Director, Technology Center 1600

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2551-105

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAR 19 2003

B. J. SADOFF
NIXON & VANDERHYE P.C.
1100 NORTH GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

In re Application of	:
Geert Maertens et al	:
Serial No.: 08/836,075	: PETITION DECISION
Filed: April 21, 1997	:
Attorney Docket No.: 2752-31	:

This is a decision on the petition under 37 CFR 1.181, filed December 19, 2002, requesting removal of an improper restriction requirement.

BACKGROUND

A review of the pertinent portion of the file history shows that this application was allowed and the Issue Fee was paid prior to September, 1999. Through error the application was held abandoned in August, 2000, and the abandonment rescinded in December, 2000. In January, 2001, a petition under 37 CFR 1.313 accompanied by an RCE request and an IDS statement was filed. The petition was granted on January 26, 2001, which was too late to prevent publication of the patent, per se. By Notice in the Official Gazette indication was given that no patent had issued for the assigned number. The application was then returned to the examiner for further action.

Subsequently several additional IDS statements were submitted as well as an amendment. The examiner mailed an Office action to applicants on November 19, 2002, setting forth a two way restriction requirement, as follows:

> Group I, claims 75-84, drawn to unique polypeptides from differing HCV genomes;
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In addition, the election of a single amino acid sequence was required irrespective of whichever group was elected. Applicants replied on December 19, 2002, electing Group I and SEQ ID NO. 43 with traverse. Applicants also filed this petition to have the restriction requirement withdrawn.

DISCUSSION

Applicants argue that all of the claims currently active in the application were prosecuted and allowed by the same examiner in June, 1999. Applicants have amended the claims only to cancel one dependent claim and to remove some of the sequence identifiers from the claims so as to avoid newly submitted prior art. Applicants argue that since all of the claims were previously considered together they should not be divided now. Applicants basically argue that the Office has been inconsistent in prosecution of this application and that the restriction requirement should be withdrawn.

It is also noted that this application is the National Phase filing of PCT/EP95/04155. As such the making of a restriction requirement solely under 35 U.S.C. 121 without consideration of PCT Rule 13 provisions is improper. As only RCE papers have been filed this application remains a National Phase application.

DECISION

Applicants' petition is **GRANTED.**

The restriction requirement of the last Office action is withdrawn. The application will be forwarded to the examiner for consideration of the response filed December 19, 2002.

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) 305-7230.

John Doll
Director, Technology Center 1600

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Paper No. 34

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SUITE 3200
CHICAGO IL 60606

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JUN 1 1 2002

OFFICE OF PETITIONS

In re Application of
Haensler, et al.
Application No. 08/836,576
Filed: September 9, 1997
Attorney Docket No. 0725.0100000

DECISION ON PETITION

This is a decision on the petition filed on March 28, 2002, pursuant to 37 CFR 1.137(b), 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 October 25, 2000, which set a shortened statutory period for reply of three (3) months. On April 24, 2001, petitioner obtained a three month extension of time and filed a Continued Prosecution Application (CPA). Petitioner's CPA was treated as a Request for Continued Examination (RCE) under 37 CFR 1.114, because an earlier CPA had been filed on or after May 29, 2000.[1] However, the constructive RCE could not be entered because it was not accompanied by a submission as required by 37 CFR 1.114. Accordingly, the above-identified application became abandoned on April 26, 2001. On May 4, 2001, petitioner was mailed a Notice of Improper RCE. A Notice of Abandonment was mailed on November 29, 2001.

With the instant petition, petitioner paid the petition fee and made the proper statement of unintentional delay. The required reply in the form of a submission under 37 CFR 1.114 was previously filed on June 21, 2001.

Receipt of the Revocation and Power of Attorney is acknowledged and made of record. Future correspondence concerning the above-identified application will be mailed to the above address of record.

The application file is being forwarded to Technology Center 1600 for consideration of petitioner's RCE, filed April 24, 2001, and the submission, filed June 21, 2001.

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

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

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[1] The earlier CPA was filed on August 31, 2001.

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OCT 29 2001

#28

NIXON & VANDERHYE
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON , VA 22201-4714

In re Application of :
Jacques Beckmann et al. :
Serial No.:08/836,734 :PETITION DECISION
Filed: July 2, 1997 :
Attorney Docket No.: 960-29 :

This is in response to applicants' petition under 37 CFR 1.181, filed July 30, 2001, to withdraw the abandonment of the above identified application based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicants on April 30, 2001, setting a one month shortened statutory period for reply. On July 13, 2001, the examiner mailed a Notice of abandonment to applicants. Inasmuch as the period for reply could be extended to and beyond July 13, 2001, the Notice of Abandonment was mailed improperly. In view thereof the Notice of Abandonment mailed July 13, 2001 is vacated and the application is restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

As applicants have now filed a timely reply, including the appropriate extension of time required, the application will be forwarded to the examiner for further consideration.

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) 308-7230.

John Doll
Director, Technology Center 1600

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,106,776	2000-08-22	08837048	1997-04-11	UOPM-0007

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 J. Bonella/	Date (YYYY-MM-DD)	2008-11-07
Name	Michael J. Bonella	Registration Number	41628

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

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In re Patent No. 6106776
Issue Date: August 22,2000
Application No. 08837048
Filed: April 11,1997
Attorney Docket No. UOPM-0007

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

This is a decision on the electronic petition, filed November 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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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MAY - 9 2005

Evelyn M. Sommer
250 Park Avenue
Room 825
New York, NY 10022

In re Application of:
Zikria et al.
Serial No.: 08/837,840
Filed: April 22, 1997
Attorney Docket No.: ZikriaIV

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to the petition under 37 CFR § 1.181, filed September 13, 2004, for withdrawal of abandonment of the above-identified application based on failure to timely pay the issue fee and publication fee, if applicable. The delay in responding to this petition is regretted.

A review of the file history shows that the examiner mailed a Notice of Allowability, and Notice of Allowance and Fee(s) Due to applicants on June 17, 2002, setting a three-month shortened statutory period for reply. On May 21, 2003, the Notice of Allowance and Fee(s) Due was remailed to applicants, setting a three-month shortened statutory period for reply. On August 9, 2004, a Notice of Abandonment for failure to pay the required fee(s) was mailed.

Applicants state that the Notices were never received and provides as evidence thereof a copy of the attorney docket report where the Notices would have been entered if received, showing non-receipt of the Notices. Based on the evidence presented, it is concluded that applicants never received the Notices. In view thereof, the Notice of Abandonment mailed August 9, 2004, 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, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
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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MAY 27 2005

EVELYN M. SOMMER
250 PARK AVENUE, ROOM 825
NEW YORK, NY 10022

In re Application of	:
Bashir Zikria	:
Serial No.: 08/837,840	: PETITION DECISION
Filed: April 22, 1997	:
Attorney Docket No.:	:

This is in response to the petition under 37 CFR 1.181, filed September 7, 2004, for withdrawal of abandonment based on incorrect mailing address. The delay in acting on this petition is regretted.

A review of the file history shows that this application, following a decision by the Board of Patent Appeals and Interferences, was allowed on June 17, 2002, the Notice of Allowance being mailed to the address of record: EVELYN M. SOMMER, 300 PARK AVENUE, 25TH FLOOR, NEW YORK, NY 10022-7402. This was the address provided in the change of Address letter filed February 19, 1999. Publications Division returned the application to the examiner in October and December, 2002, with a notation that the Notice of Allowance and Issue Fee Due had been returned as undeliverable and that no change of address was present in the file. A second Notice of Allowance and Issue Fee Due was mailed to the same address on May 21, 2003. Applicant's attorney filed a change of address on June 1, 2004, to change the correspondence address to: 250 PARK AVENUE, 8TH FLOOR, NEW YORK, NY 10022, and a subsequent correction to ROOM 825, on July 1, 2004. The correspondence address on the petition is the above noted address. A Notice of Abandonment was mailed on August 9, 2004, to 825 THIRD AVENUE, 30TH FLOOR, NEW YORK, NY 10022, for failure to pay the Issue Fee, and apparently received by applicant's attorney.

From the above information in Office records, it appears that applicant's attorney has changed correspondence addresses several times over the last few years, but has not always informed the Office of such changes in every application. Absent further evidence that correspondence address changes were timely and properly submitted to the Office, this application must be considered abandoned due to applicant's lack of diligence in maintaining a current correct correspondence address.

The petition is **DISMISSED**.

Applicant may submit a renewed petition addressing the above facts or omissions noted above. Any such renewed petition must be submitted within TWO MONTHS of the mailing date of this

decision in order to be considered timely. Alternatively, applicants may submit a petition under 37 CFR 1.137(b) for unintentional abandonment and seek revival in this manner.

A copy of the most recent Notice of Allowance and Issue Fee Due and Notice of Allowability are included with this decision for applicant's convenience.

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, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/837,840	04/22/1997	BASHIR ZIKRIA		8063

43399 7590 06/17/2005
EVELYN M. SOMMER
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NEW YORK, NY 10221

EXAMINER
OWENS JR, HOWARD V

ART UNIT	PAPER NUMBER
1623	

DATE MAILED: 06/17/2005

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

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EVELYN M. SOMMER
250 PARK AVENUE, ROOM 825
NEW YORK, NY 10022

In re Application of	:
Bashir Zikria	:
Serial No.: 08/837,840	: PETITION DECISION
Filed: April 22, 1997	:
Attorney Docket No.:	:

This is in response to the petition under 37 CFR 1.181, filed September 7, 2004, for withdrawal of abandonment based on incorrect mailing address.

As noted by applicant two petition decisions were mailed to applicant within a few days of each other which proposed different decisions by two different reviewers. Inasmuch as the decision to grant the petition was first mailed, the second petition decision was mailed in error and is hereby vacated. The error is regretted.

The petition decision mailed May 27, 2005, is vacated and should be disregarded.

A new Notice of Allowance and Issue Fee Due and Notice of Allowability will be mailed to applicant.

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, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

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TOWNSEND and TOWNSEND and CREW LLP
TWO EMBARCADERO CENTER, EIGHT FLOOR
SAN FRANCISCO,
CALIFORNIA 94111-3834

In re Application of	:
Steinunn Baekkeskov et al.	:
Serial No.: 08/838,486	: PETITION DECISION
Filed: April 07, 1997.	:
Attorney Docket No.: 02307U-3122	:

This is in response to the petition under 37 CFR 1.181, filed July 10, 2006, requesting a review and reversal of the Examiner's decision refusing to enter new evidence submitted with the revised appeal brief filed August 13, 2004. The delay in responding to this petition is regretted, however, it has only just been brought to the attention of the deciding authority.

BACKGROUND

This application has a very long prosecution history beginning with a restriction requirement mailed on February 12, 1998, restricting claims 31 to 42.

In response to the restriction, applicants elected claims 31 to 37, without traverse on March 16, 1998.

On April 28, 1998, a non-final Office action was mailed rejecting claims 31 to 37 under 35 U.S.C. 112, first paragraph; rejecting claims 31 to 34 under 35 U.S.C. 112, second paragraph; rejecting claims 31and 35 under 35 U.S.C. 102 and rejecting claims 31, 32, 33 and 35 to 37 under 35 U.S.C. 103.

On November 2, 1998, applicants responded by amending the claims and specification, adding new claims and arguing the rejections.

On January 22, 1999, the examiner mailed a second non-final Office action rejecting claims 31, 34, 35 and 49 to 53 under 35 U.S.C. first paragraph, rejecting claim 31 and 35 under 35 U.S.C. 102 and rejecting claims 35 and 54 to 57 under 35 U.S.C. 103.

On July 28, 1999, applicants responded by amending the claims and arguing the rejections.

On October 12, 1999, the examiner mailed a final Office action rejecting claims 31, 34, 35, 49-53 and newly added claim 58 and 59 under 35 U.S.C. first paragraph, rejecting claim 31 under 35 U.S.C. 102 and rejecting claims 35 and 54 to 57 under 35 U.S.C. 103.

In response thereto, applicants filed a CPA on April 14, 2000.

On July 5, 2000, the examiner mailed a non-final Office action rejecting the.

On January 10, 2001, applicants amending the claims and argued the rejections.

On April 24, 2001, the examiner mailed a final Office action rejecting claims 31, 34, 49-59, 60 and 61 under 35 U.S.C. first paragraph, rejecting claim 31 under 35 U.S.C. 102 and rejecting claims 35, 54-57 and new claims 62 and 63 under 35 U.S.C. 103.

On October 9, 2001, applicants responded with an amendment after final.

On November 7, 2001, the examiner mailed an advisory action stating the amendment after final would be entered.

On June 4, 2002, applicants filed a request for a CPA.

On August 5, 2002, a notice of non-compliant amendment was mailed to applicants.

Applicants responded on August 14, 2002 with the proper amendment.

On November 4, 2002, a non-final Office action was mailed wherein the CPA was acknowledged, the election of group I, without traverse was acknowledged, the rejection of claims 31, 34, 49-53, 58-59 and 62-63 under 35 U.S.C. 112 first paragraph scope of enablement was maintained; and the rejection of claim 31 under 35 U.S.C. 102(e) over US 5,762,937 was maintained. Claims 62 and 63 were rejected under 35 U.S.C. 112 second paragraph.
Claims 35 and 54-57 were rejected under 35 U.S.C. 102 (b) over US 4,086,142.
Claims 35, 49 and 54-57 were rejected under 35 U.S.C. 102(e) over US 5,762,947.
Claims 34, 50-53 and 58-59 were rejected under 35 U.S.C. 103(a) over US 5,762,947.

The examiner and the applicants had an interview on March 27, 2003 to clarify that the Office action mailed on November 04, 2002 was a non-final action.

The applicants filed declarations along with arguments and an amendment on May 08, 2003 and new claims 64-67 were added.

Applicants submitted another declaration on May 23, 2003.

The examiner mailed a final Office action on July 29, 2003 wherein the examiner:

Withdrew the rejection of claims 62 and 63 under 35 U.S.C. 112 second paragraph.

Maintained the rejection of claims 31, 49-53, 58, 62-63 and also newly added claims 64-67 under 35 U.S.C. 112 first paragraph. Addressed and argued the applicants arguments presented in the declaration.
Maintained the rejection of claim 31, 35, 49, 54-57 and newly added 64 and 65 under 35 U.S.C. 102(e) over US 5,762,937.
Maintained the rejection of claims 50-53, 58-59 and on the newly added claims 66 and 67 under 35 U.S.C. 103 over US 5, 762,937.
Rejected claims 35, 54-57 under 35 U.S.C. 103 over US 4, 086,142 in view of US 4,736,020. 9 necessitated by the amendment.

In response, applicants filed a notice of Appeal on January 16, 2004.

Applicants filed an Appeal Brief with a 2nd declaration from Steinun Baekkeskov on May 03, 2004 and an after final amendment canceling claims 49 and 58.

The examiner entered the after final amendment on Julu 12, 2004 which canceled the claims 49 and 58, but sent a non-compliance letter with a shortened statutory period as applicants cited numerous references, evidence and also a new declaration on July 13, 2004.

On August 16, 2004 applicants filed a revised appeal brief in which he argued the reasons for presenting the evidence.

On October 27, 2004, the examiner again sent a non-compliance letter with a shortened statutory period, indicating that the appeal brief was defective as it contained new evidence.

On November 15, 2004, applicants sent in arguments as to why their appeal brief and declaration were proper and also submitted 61 pages of remarks, arguments and references on December 13, 2004.

The examiner mailed an advisory action on April 21, 2005 stating the affidavit or other evidence would not be entered as it was not timely filed before the appeal brief. The examiner also indicated the rejections of record were maintained.

Applicants filed several status letters on July 11, 2005, September 29, 2005 and March 03, 2006.

The examiner responded on June 1, 2006, with another non-compliance letter and repeated that the appeal brief contained a declaration and new evidence and hence was not in compliance with 37 CFR 41.37.

In response thereto, applicants filed this petition on July 10, 2006, requesting a review and reversal of the Examiner's decision refusing to enter new evidence submitted with the appeal brief filed August 16, 2004. Applicants also submitted a second appeal brief without the evidence on July 10, 2006.

A Patent Appeals Specialist mailed a non-compliance letter, on July 28, 2006, indicating that the brief was not in compliance as it failed to map each independent claim by page and line number of the specification.

In response thereto, applicants filed another brief on August 14, 2006.

DISCUSSION

Applicants argue that In the Notification of Non-Compliance, the Examiner states that the reason for refusing to enter the declaration and exhibits is that no new rejections nor grounds for rejection were made by the Examiner. However, applicants ague these comments apply the wrong standard for entry of the declaration or exhibit after appeal. The standard for entry of a declaration or exhibits with an appeal brief is provided by 37 CFR 1.195, which states:

> Affidavits, declarations, or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reason why they were not presented earlier.

Applicants further argue the exhibits and declaration address new points of argument raised by the Examiner in the final office action and that the exhibits and declarations could not have been presented earlier because the arguments they address were not presented before the final office action by the Examiner. The Baekkeskov declaration and its exhibits and the Findlay reference are considered by applicants to specifically address new points of argument raised by the Examiner in the final Office action.

Applicants further argue that the examiner has consistently taken the position (Notification of Non-Compliance of July 13, 2004 and June 1, 2006) that he can refuse entry of the requested evidence because "no new rejections nor grounds for rejection were made by the Examiner." In applicants' submission, the Examiner's position does not apply the standard of 37 CFR 1.195 (or for that matter of 37 CFR 41.33). Regardless as to whether the Examiner's new arguments were responsive to new evidence by applicants or other reason, the fact remains that the arguments were new and could not have reasonably been addressed by applicants before the new arguments were made. Thus, under 37 CFR 1.195, which was in effect on August 13, 2004 when the evidence was offered, the evidence should have been admitted.

According to 37 CFR 41.33, an affidavit may be entered if the examiner determines that it overcomes all the rejections under appeal. Specifically, 37 CFR 41.33 states:

> (d)
>
> (1) An affidavit or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date of filing a brief pursuant to § 41.37 may be admitted if the examiner determines that the affidavit or other evidence overcomes all rejections under appeal and that a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented has been made.

This does not appear to be the case here. The affidavit and the evidence submitted here are only to argue the 35 U.S.C. 112, first paragraph rejection. Even if it did overcome this particular rejection, there are still other rejections of the claims. Thus, all rejections would not be overcome. Therefore, it is at the examiner's discretion to not to enter the evidence at this stage of prosecution. The arguments put forth in the final Office action were in response to the declaration submitted on May 23, 2003, which was prior to the final Office action, thus, these arguments could not have been presented by the examiner before.

DECISION

The petition is **DENIED.**

This application will be forwarded to the examiner for consideration of the second appeal brief filed August 14, 2006, without the evidence.

Should there be any questions about this decision please contact Ms. Marianne Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number 571-273-8300.

George C. Elliott
Director, Technology Center 1600

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. 39

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

MAR 27 2002

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

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AKIO TANAKA, NAOTO MIWA, TOSHITAKA SAITO, HIROMI SANO, KAZUNORI SUZUKI and MASAYA FUJIMOTO

Appeal No. 2000-1075
Application 08/838,910

HEARD: MARCH 5, 2002

Before OWENS, LIEBERMAN and JEFFREY SMITH, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from the final rejection of claims 32-37 and refusal to allow claims 21-26 as amended after final rejection. Claims 12-15 and 27-31, which are all of the other claims pending in the application, have been indicated allowable.

THE INVENTION

The appellants' claimed invention is directed toward an oxygen detector having a built-in heater. Claims 21 and 32 are

illustrative:

21. An oxygen concentration detector comprising:

a sensor element including a solid electrolyte and external and internal electrodes provided on external and internal surfaces thereof, respectively;

a high-emissivity layer provided on a surface of said internal electrode; and

a heater disposed adjacent to said high-emissivity layer to form a clearance therebetween, the clearance being 0.1 mm or more, wherein:

said internal electrode has an emissivity less than that of said high-emissivity layer; and

said high-emissivity layer has an emissivity of 0.3 or more, and a porosity more than 10 percent.

32. An oxygen concentration detector comprising:

a sensor element including a solid electrolyte and external and internal electrodes provided on external and internal surfaces thereof, respectively; and

a heater disposed adjacent to said internal electrode to form a clearance therebetween, the clearance being 0.1 mm or more;

wherein said heater has an emissivity of 0.6 or more.

THE REFERENCES

Pollner et al. (Pollner)	4,021,326	May 3, 1977
Torisu et al. (Torisu)	4,452,687	Jun. 5, 1984
Sakurai et al. (Sakurai)	4,540,479	Sep. 10, 1985
Ker et al. (Ker)	4,900,412	Feb. 13, 1990
Agarwal et al. (Agarwal)	4,935,118	Jun. 19, 1990

THE REJECTIONS

The claims stand rejected under 35 U.S.C. § 103 as follows: claims 21-26 and 36 over Torisu in view of Sakurai and Pollner,[1] and claims 32-35 and 37 over Ker in view of Agarwal.[2]

OPINION

We reverse the aforementioned rejections. We need to address only the independent claims, i.e., claims 21, 32 and 36.

Rejection of claims 21 and 36

The appellants' claims 21 and 36 both require a high emissivity layer having a porosity of more than 10% on a surface of an internal electrode.

Torisu discloses an oxygen concentration sensor having on inner and outer electrodes "protective layers made of alumina and spinel and adapted to protect the electrodes and to limit the flow of oxygen through the cathode" (col. 3, lines 5-8). Torisu does not disclose the porosity of the protective layers. To

[1] In this rejection the examiner no longer relies upon Ker and U.S. 4,212,720 to Maurer (answer, page 3).

[2] A rejection of claims 21-26 and 31 under 35 U.S.C. § 112, first paragraph, is withdrawn in the examiner's answer (page 2).

remedy this deficiency the examiner relies upon Pollner.[3]

Pollner discloses an oxygen concentration detector having on an external electron conductive layer (13) a porous cover coating (14) which preferably is made of an oxide or a mixed oxide such as spinel and may have a pore area between 10% and 50% (col. 4, lines 4-6; col. 5, lines 19-32).

The examiner argues that Torisu's protective layer must be sufficiently porous to permit passage of reference air, and that a protective layer having a porosity of 10% obviously would provide both the required protection and porosity (answer, pages 5 and 8). The references are totally analogous, the examiner argues, and "[i]ncorporating conventional features from analogous prior art is within the skill of the art" (answer, page 5).

In order for a *prima facie* case of obviousness to be established, the teachings from the prior art itself must appear to have suggested the claimed subject matter to one of ordinary skill in the art. *See In re Rinehart*, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976). The mere fact that the prior art

[3] Sakurai is relied upon by the examiner for a disclosure of a heater within a sensor element (answer, page 4), and not for a teaching which remedies the deficiency in Torisu as to the porosity of the protective layer.

could be modified as proposed by the examiner is not sufficient to establish a *prima facie* case of obviousness. *See In re Fritch*, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). The examiner must explain why the prior art would have suggested to one of ordinary skill in the art the desirability of the modification. *See Fritch*, 972 F.2d at 1266, 23 USPQ2d at 1783-84.

The examiner has not provided the required explanation as to how the applied prior art itself would have fairly suggested, to one of ordinary skill in the art, making Torisu's protective layer such that it has the porosity of Pollner's porous coating. Torisu teaches that his protective layer is adapted to protect the electrodes and to limit the flow of oxygen through the cathode (col. 3, lines 7-8), whereas Pollner believes that his porous coating mixes exhaust gas, the oxygen content of which is being measured, and causes the gas molecules to diffuse along the catalytically active electron conductive layer (col. 4, line 55 - col. 5, line 4). The references, therefore, indicate that the function of Pollner's porous coating differs from that of Torisu's protective layer. The examiner has not explained why, regardless of these differences, one of ordinary skill in the art would have been led by the references themselves to provide

Torisu's protective layer with the porosity of Pollner's porous coating. It is not sufficient for the examiner to merely assert that doing so is within the skill of the art.

Accordingly, we conclude that the examiner has not carried the burden of establishing a *prima facie* case of obviousness of the oxygen concentration detectors recited in the appellants' claims 21 and 36. Hence, we reverse the rejection of these claims and claims 22-26 which depend from claim 21.

Rejection of claim 32

Ker discloses an oxygen concentration detector including a sensor element comprising a solid electrolyte (14) having external and internal electrodes (26,22) on external and internal surfaces (28,24) thereof, respectively, and a heater element (62) disposed adjacent to the internal electrode to form a clearance therebetween (figure 1).[4] Ker discloses that the base material of the heater element is a ceramic such as alumina (col. 5, lines 41-43). The appellants' specification (page 12, table 1) indicates that alumina has an emissivity of 0.3. Ker does not disclose a heater element having an emissivity of 0.6 or more.

[4] The appellants do not challenge the examiner's argument (answer, page 6) that a clearance of at least 0.1 mm would have been fairly suggested to one of ordinary skill in the art by the applied prior art.

Agarwal discloses an oxygen sensor having a heating element (11,12) arranged to surround and radiate heat to a solid electrolyte tube (13) (abstract; col. 2, lines 22-24). The disclosed heating element materials include silicon carbide, silicon nitride and aluminum nitride (abstract; col. 4, lines 10-19). The fact that silicon carbide, silicon nitride and aluminum nitride are the heater materials recited in the appellants' claim 34, which depends from claim 32, indicates that they have an emissivity of at least 0.6.

The examiner argues that it would have been obvious to one of ordinary skill in the art to use Agarwal's silicon carbide, silicon nitride or aluminum nitride as Ker's heater material because these materials are readily available and inexpensive, Ker and Agarwal are analogous art, and incorporation of conventional features from analogous prior art is within the skill of the art (answer, pages 6 and 9).

The examiner has provided no evidence or reasoning which shows that one of ordinary skill in the art would have considered any readily available and inexpensive ceramic material to be suitable for use as Ker's heating element base material. Also, the examiner has not provided evidence or reasoning which shows that the references themselves would have led one of ordinary

skill in the art to combine their teachings as proposed by the examiner. Merely asserting that the references are analogous art and that using Agarwal's heating element materials as Ker's heater element base material is within the skill of the art is not sufficient for establishing a *prima facie* case of obviousness. The examiner must provide evidence or reasoning which shows that the references themselves would have led one of ordinary skill in the art to combine their teachings so as to arrive at the claimed invention, *see Rinehart*, 531 F.2d at 1051, 189 USPQ at 147, and the examiner has not done so. Consequently, we reverse the rejection of claim 36.

DECISION

The rejections under 35 U.S.C. § 103 of claims 21-26 and 36 over Torisu in view of Sakurai and Pollner, and claims 32-35 and 37 over Ker in view of Agarwal, are reversed.

REVERSED

TERRY J. OWENS Administrative Patent Judge	)
PAUL LEBERMAN Administrative Patent Judge	) BOARD OF PATENT) APPEALS AND
JEFFREY T. SMITH Administrative Patent Judge	) INTERFERENCES

Appeal No. 2000-1075
Application 08/838,910

MICHELLE N. LESTER, ESQ.
NIXON & VANDERHYE, P.C.
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TJO:caw

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Paper No. 44

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Akio Tanaka, et al. :
Application No. 08/838,910 :
Filed: April 11, 1997 :
Attorney Docket No. 235648 :

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee filed November 8, 2002.

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 24, 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]

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1743 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

---

[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. **Failur 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.**

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Akio Tanaka, et al.
Application No. 08/838,910
Filed: April 11, 1997
Attorney Docket No. 235648

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After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1743 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy
(703) 305-9220

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MAR 14 2001

UNITED STATES PATENT & TRADEMARK OFFICE

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

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Office of the Director
Group 3600

Paper No. 24

Eugene S. Stephens
EUGENE STEPHENS & ASSOCIATES
56 Windsor Street
Rochester, NY 14605

In re Application of William P. Newton et al Application No. 08/839,161 Filed: April 22, 1997 Attorney Docket No.: For: SUPPORT SYSTEM FOR LATERALLY REMOVABLE SASH	DECISION ON PETITION REGARDING HOLDING OF NON-COMPLIANCE OF APPEAL BRIEF UNDER 37 CFR 1.181

This is in response to applicants' petition under 37 CFR 1.181 filed July 26, 2000 requesting withdrawal of the holding of non-compliance of the appeal brief with the requirements of 37 CFR 1.192(c) mailed June 12, 2000. The delay in answering this petition is regretted.

The Petition is **DENIED**.

Applicants allege that the examiner's holding that the appeal brief filed April 17, 2000 is not in compliance with the requirements of 37 CFR 1.192(c) is improper. In particular, it is applicants' position that there is no requirement for each claim stated to stand or fall separately to be argued separately.

37 CFR 1.192(c)(7) and MPEP 1206 set forth that for each ground of rejection applied to a group of two or more claims, the Board shall select a single claim from the group to decide the appeal as to the ground of rejection on the basis of that claim alone *unless* applicants include a statement that the claims of the group do not stand or fall together *and*, in the argument under 37 CFR 1.192(c)(8), applicants explain why the claims of the group are believed to be separately patentable. Further, merely pointing out the differences in what the claims cover is not an argument as to why the claims are separately patentable.

A review of the record reveals that the appeal brief filed on April 17, 2000 contains a statement that the claims of the different groups do not stand or fall together. See item 7, titled "Grouping of Claims", on page 5 of the brief. However, the appeal brief fails to explain why each of the claims are separately patentable with regard to the respective ground of rejection. See item 8, titled "Argument", beginning on page 5 of the brief.

As one example of this deficiency, claims 1-11, 29, 30, 32-34, 39-44, 46-48, 53-58, 60-63, and 67-73 are rejected under 35 U.S.C. § 102(b) as being anticipated by Haas. In accordance with the statement on page 5 of the brief, all of these claims are said to stand or fall separately. In order for the separate patentability of these claims to be considered, applicants must also explain in the argument why each of the claims are separately patentable. However, review of the arguments on pages 5-12 pertaining to this ground of rejection reveals that applicants have failed to explain why each of claims 3, 5, 6, 8, 9, 10, 11, 33, 34, 48, 54, 55, 56, 57, 58, 60, 62, 63, 71, and 72 are separately patentable.

It is quite clear that 37 CFR 1.192(c)(7) requires two affirmative acts in the brief in order to have separate patentability of a plurality of claims subject to the same rejection considered. Applicants must (1) state which claims do not stand or fall together *and* (2) present arguments why the claims subject to the same ground of rejection are separately patentable. Where an applicant does neither, it is appropriate for the examiner and the Board to rely upon the presumption created by the words of the rule and treat all claims as standing or falling together. However, where an applicant (1) omits the statement required by 37 CFR 1.192(c)(7) yet presents separate arguments in the "Argument" section of the brief or (2) includes the statement required by 37 CFR 1.192(c)(7) that the claims do not stand or fall together yet does not offer separate arguments in support in the "Argument" section of the brief, an inconsistency is present that evidences non-compliance with 37 CFR 1.192(c).

Applicants' assert that 37 CFR 1.192(c) does not require a separate argument for each claim of a rejected group. This assertion is correct only in the instance where the non-argued claim is not stated to stand or fall separately. The Rule requires a separate argument for each claim stated to stand or fall separately as has been pointed out above. In view of the fact that applicants stated that each claim was to stand or fall separately, a separate argument for each claim was required in order for the brief to be in compliance. Because applicants' brief contained a clear inconsistency between which claims were stated to stand or fall separately and which claims were separately argued, the brief is clearly in non-compliance with 37 CFR 1.192(c).

It appears that it is applicants' belief that the Rule only requires a parroted blanket statement under the heading "Grouping of Claims" that the claims do not stand or fall together without having to actually identify those claims which are considered to stand or fall separately. However, this is incorrect. 37 CFR 1.192(c)(7) requires an applicant to identify those claims considered to stand or fall separately. Further, there must be agreement between the claims which have been stated to not stand or fall together and the claims actually argued separately.

It is noted that the period for response set forth in the Notification of Non-Compliance, and any possible extensions thereof, has expired. Accordingly, *if* no timely response thereto has already been filed, the appeal in this application will be dismissed and the application held abandoned. Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the response was unavoidable. This includes a satisfactory showing that the cause of delay resulting in failure to respond in timely fashion to the Office communication was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

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 be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(m); and **(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 small entity petition fee required by law for filing a petition under the unavoidable standard is $55. The fee for a petition under the unintentional standard is $620.

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By fax: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza 4, Suite 3C23
2201 South Clarke Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions staff at (703) 305-9282.

SUMMARY: The petition is **DENIED**.

Al Lawrence Smith, Director
Patent Technology Center 3600
(703) 308-1020
Facsimile No.: (703) 306-4597

SM/DS; 3/6/01

SM

JUL 23 2001

UNITED STATES PATENT & TRADEMARK OFFICE

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

Eugene S. Stephens
EUGENE STEPHENS & ASSOCIATES
56 Windsor Street
Rochester, NY 14605

MAILED
JUL 23 2001
Office of the Director
Group 3600

Paper No. 28

In re Application of
William P. Newton et al
Application No. 08/839,161
Filed: April 22, 1997
Attorney Docket No.:
For: SUPPORT SYSTEM FOR LATERALLY REMOVABLE SASH

DECISION ON REQUEST FOR RECONSIDERATION

This is in response to applicants' request for reconsideration filed March 27, 2001. Applicants request reconsideration of the petition decision mailed March 14, 2001 denying applicants' request to withdraw the holding of non-compliance of the appeal brief mailed June 12, 2000.

The Request for Reconsideration is **DENIED**.

Applicants allege that there was a lack of understanding on their part regarding the requirements of 37 CFR 1.192(c)(7). Further, applicants allege that the examiner failed to communicate all possible options or otherwise fully explain the deficiency of the brief in complying with 37 CFR 1.192(c)(7) to enable applicants to appropriately correct the deficiency in a timely manner. In particular, it is applicants' position that had they been able to learn from the examiner that it is permissible for a brief to argue for separate patentability of less than all of the claims on appeal, providing that the claim grouping statement specifically identified only these claims as standing or falling separately, then such a solution would have been readily adopted and a petition of the requirement would not have been made.

With respect to the comments regarding a lack of understanding of the requirements of 37 CFR 1.192(c)(7), it should be noted that, as a registered practitioner, it is presumed that applicants' representative fully understands the requirements of 37 CFR 1.192(c)(7). Moreover, how the Office views the requirements of 37 CFR 1.192(c)(7) has long been well-established by case law. For example, note *Ex parte Schier*, 21 USPQ2d 1016 (BPAI 1991) and *Ex parte Ohsumi*, 21 USPQ2d 1020 (BPAI 1991). Further, applicants should note MPEP § 1206.

With respect to the allegation that the examiner required applicants to either state that the claims stood or fell together or provide a separate argument for every claim, this simply was not the case. In particular, it is noted that in the Office letter mailed July 12, 2000, Paper No. 21, the examiner clearly explained in the second paragraph of page 2 that a separate argument for patentability was required for each claim identified to stand or fall separately. Further, the second paragraph of page 3 clearly indicated that applicants must provide an argument "for each claim ***considered*** to stand or fall separately" (emphasis added). There is found no statement by the examiner requiring applicants to correct the non-compliance by only one of the two options outlined by applicants in the instant request for reconsideration. At best, it would appear that applicants failed to appreciate what the examiner was stating and this failure led to a misinterpretation that the examiner was requiring one specific course of action rather than merely correction of the non-compliance as a whole.

With respect to the redraft attached to the request for reconsideration, it should be noted that attempts to now overcome the holding of non-compliance are untimely and ineffective. Further, it should be noted that applicants must submit a complete new brief to overcome the holding of non-compliance, not merely the section of the brief that was defective.

While the circumstances outlined by applicants may evidence that the application was abandoned unintentionally or unavoidably, there is no evidence of record that the holding of abandonment was in error. Applicant may wish to consider filing a petition to revive under 37 CFR 1.137(a) (unavoidable delay) or 37 CFR 1.137(b) (unintentional delay) as discussed below.

I. Unavoidable Delay

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: **(1)** the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(l); and **(3)** an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the response was unavoidable. This includes a satisfactory showing that the cause of delay resulting in failure to respond in timely fashion to the Office communication was unavoidable. Diligence during the time period between abandonment and filing of the petition to revive must also be shown.

As an alternative to filing a petition for unavoidable abandonment, a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b) might be appropriate.

II. Unintentional Delay

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 be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; **(2)** the petition fee required by 37 CFR 1.17(m); and **(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 petition fee required by law for filing a petition under the unavoidable standard is $110 ($55 for small entity). The fee for a petition under the unintentional standard is $1240 ($620 for small entity).

If not previously filed, the reply to the outstanding Office action must accompany the petition to revive.

The required items should be promptly submitted under a cover letter entitled "Petition to Revive".

Further correspondence with respect to a petition to revive should be addressed as follows:

By mail: Deputy Commissioner of Patent Examination Policy
Box DAC
Washington, D.C. 20231

By fax: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza 4, Suite 3C23
2201 South Clarke Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions staff at (703) 305-9282.

SUMMARY: The request for reconsideration is **DENIED**.

Al Lawrence Smith, Director
Patent Technology Center 3600
(703) 308-1020
Facsimile No.: (703) 306-4597

KD/DS; 6/22/01

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

EUGENE S STEPHENS
EUGENE STEPHENS & ASSOCIATES
56 WINDSOR STREET
ROCHESTER NY 14605

COPY MAILED

MAR 1 2 2002

OFFICE OF PETITIONS

In re Application of
William P. Newton, Robert M. Lucci, and
Thomas F. Batten
Application No. 08/839,161
Filed: April 22, 1997
Title: **SUPPORT SYSTEM FOR LATERALLY REMOVABLE SASH**

DECISION ON PETITION

This is a decision on the petition filed on January 17, 2002, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 1.192(c). On November 19, 1999, a final Office action was mailed. On February 18, 2000, a Notice of Appeal was received in the Office. On April 17, 2000, the accompanying Appeal Brief was received. On June 12, 2000, a Notification of Non-Compliance with 37 CFR 1.192(c) was mailed, which granted a one (1) month period for compliance. On June 23, 2000, a letter was received traversing the Examiner's assertion that the Appeal Brief was defective, and requesting that the Notification of Non-Compliance be withdrawn. On July 12, 2000, a letter was mailed to petitioner, indicating the Appeal Brief was still considered to be defective, and that the time period for reply continued to run. On July 26, 2000, a petition was filed with the Technology Center to withdraw the Notification of Non-Compliance of the Appeal Brief. The decision denying this request for reconsideration was mailed on March 14, 2001. Therefore, as a

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.

complete and proper appeal brief was not filed within the one (1) month of the Notification of Non-Compliance with 37 CFR 1.192(c) mailed June 12, 2000, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated[2]. As no claim was allowed, the-above-identified application became abandoned on July 13, 2000[3]. On March 21, 2001, a Notice of Abandonment was mailed.

With the instant petition, the petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of the filing of an Appeal Brief[4], the payment of the petition fee, and has made the proper statement of unintentional delay.

The application file is being forwarded to Technology Center 3600 for further processing of the Appeal Brief filed concurrently with the instant petition.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

2 See 37 CFR 1.192(d), 1.197(c).
3 See MPEP 1215.04.
4 This Appeal Brief has been considered by the Examiner, and has been found to be in compliance with 37 CFR 1.192(c).

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)
5,778,835	1998-07-14	08/839,375	1997-04-18	790105.1020

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	/Larry W. Brantley/	Date (YYYY-MM-DD)	2010-07-23
Name	Larry W. Brantley	Registration Number	46052

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. 5778835
Issue Date: July 14,1998
Application No. 08839375
Filed: April 18,1997
Attorney Docket No. G-96-163

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

This is a decision on the electronic petition, filed July 23,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 23,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,822,447	1998-10-13	08/839,580	1997-04-15	351918-907002

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 A. Limbach/	Date (YYYY-MM-DD)	2008-10-09
Name	Alan A. Limbach	Registration Number	39749

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. 5822447
Issue Date: October 13,1998
Application No. 08839580
Filed: April 15,1997
Attorney Docket No. IRIS-7002

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 30, 2007

TO SPE OF : ART UNIT 2600

SUBJECT : Request for Certificate of Correction on Patent No.: 5964896 /08/839873 Reconsideration

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.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 116

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**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20071206

DATE : December 6, 2007

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction on Patent No.: 5,964,896

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 3-910
Palm location **7590** - Tel. No. 305-8201

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:

Orginal dependent claim 24 submitted in the preliminary amendment when renumbered would be claim 15 dependent on claim 6. This claim was not publish (see attached for correction).

JACQUES LOUIS-JACQUES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE: ___ **Art Unit** 2112

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)
6018838	2000-02-01	08840141	1997-04-11	166-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

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	/Duane C. Nowack/	Date (YYYY-MM-DD)	2008-04-17
Name	Duane C. Nowack		

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. 6018838
Issue Date: February 1,2000
Application No. 08840141
Filed: April 11,1997
Attorney Docket No. 166-P001

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

This is a decision on the electronic petition, filed April 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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. 5750169
Issue Date: May 12,1998
Application No. 08840505
Filed: April 21,1997
Attorney Docket No. 11931-1010

:
: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.

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)
5750169	1998-05-12	08840505	1997-04-21	10124-1470

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	/George M. Thomas/	Date (YYYY-MM-DD)	2007-09-24
Name	George M. Thomas	Registration Number	22260

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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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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MAIL

Paper No. 34

APR 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:	)	
Kouki Hatakeyama	)	**DECISION ON PETITION TO**
Application No.: 08/841,318	)	**WITHDRAW HOLDING OF**
Filed: April 30, 1997	)	**ABANDONMENT**
For: A METHOD OF CONTROLLING THE	)	
DISPLALY MODE AND THE RECORDING	)	
MODE OF AN ELECTRONIC STILL CAMERA		

This is a decision on the petition filed September 10, 2003, to withdraw holding of abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The petition is **GRANTED**.

This application was held abandoned for failure to take action subsequent to the Board of Patent Appeals and Interference's decision (paper No. 29) mailed March 21, 2003. A Notice of Abandonment was mailed July 11, 2003.

In support of the petition, petitioners provide a copy of a request for CPA, a copy of a preliminary amendment filed with the request, and a photocopy of a date-stamped post card which itemizes the aforementioned items, including reference to a check # 900183 in the amount of $750. The date-stamped postcard evidences receipt of the listed items in the USPTO on May 21, 2003.

A review of the file record finds that applicant's request for CPA (filed in the USPTO on May 21, 2003), has since been matched and entered in the file. Therefore the record is clear that the application was ***not abandoned in fact*** and a Notice of Abandonment should not have been issued.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The Office regrets any inconvenience caused by the mailing of the Notice of Abandonment.

MPEP §1214.07 Reopening of Prosecution states in part:

> 37 CFR 1.198. Reopening after decision.
> Cases which have been decided by the Board of Patent Appeals and Interferences will not be reopened or reconsidered by the primary examiner except under the provisions of § 1.114 or § 1.196 without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown. Sometimes an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. In view of the fact that the prosecution is closed, the appellant is not entitled to have such amendment entered as a matter of right. <u>However, if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), the prosecution of the application will be reopened and the amendment will be entered</u>. [emphasis added]

Given Applicants timely responded within the time frame set forth from the Board's decision with an amendment and a request for CPA (which will be treated as a request for continued examination), the application file is being forwarded to the Technology Center support staff for proper entry and processing of the request for a CPA and amendment.

Allen MacDonald

Allen MacDonald, Director
Technology Center 2600
Communications
(703) 305-9700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

OCT - 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 31

Richard J. Jaworski
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

In re Application of: Matsuoka Application No. 08/841,397 Attorney Docket No. 655/63396 Filed: April 30, 1997 For: SPATIALIZED AUDIO IN A THREE-DIMENSIONAL COMPUTER BASED SCENE	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)

This is a decision on the petition filed July 22, 2003 requesting the withdrawal of the holding of abandonment. The Notice of Abandonment was mailed July 15, 2003 (Paper No. 29). This application was held abandoned for failure to timely file a response to the Notice of Appeal that was received December 30, 2002. This petition is being treated under 37 CFR § 1.181(a).

Petitioners have submitted a petition, a request for continued examination (RCE), a check for $750 for the filing fee, an amendment, and copies of the originally filed Notice of Appeal accompanied by a three-month extension of time. The RCE was filed with a certificate of mailing dated July 22, 2003.

A review of the Office copy reveals the Notice of Appeal and petition for three-month extension of time is of record in the application with an Office receipt date of December 30, 2002. The Notice of Abandonment was mailed prior to the end of applicant's extendable period to reply. The Office regrets any inconvenience caused by this error.

Accordingly, the petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center support staff for processing of applicant's request for continued examination.

Josie A Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

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)
5920942	1999-07-13	08841441	1997-04-22	114836.00015

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	/Eric E. Grondahl/	Date (YYYY-MM-DD)	2008-10-06
Name	Eric E. Grondahl	Registration Number	46741

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. 5920942
Issue Date: July 13,1999
Application No. 08841441
Filed: April 22,1997
Attorney Docket No. E0231/7004

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

This is a decision on the electronic petition, filed October 6,2008 ,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 6,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,058,479	2000-05-02	08/841,864	1997-05-05	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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	/Benzion A. Wachsman/	Date (YYYY-MM-DD)	2009-03-04
Name	Benzion A. Wachsman		
Enter Reel and Frame Number		Remove	
Reel Number	008531	Frame Number	0789
Enter Reel and Frame Number		Remove	
Reel Number	011302	Frame Number	0621
Enter Reel and Frame Number		Remove	
Reel Number	013467	Frame Number	0368
Enter Reel and Frame Number		Remove	
Reel Number	013117	Frame Number	0067
Enter Reel and Frame Number		Remove	
Reel Number	022343	Frame Number	0801
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:

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. 6058479
Issue Date: May 2,2000
Application No. 08841864
Filed: May 5,1997
Attorney Docket No. LANC-4

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

This is a decision on the electronic petition, filed March 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 March 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.49

MAILED

DEC 16 2003

Technology Center 2100

SQUIRE, SANDERS & DEMPSEY L.L.P.
600 Hansen Way
Palo Alto, CA 94304-1043

In re Application of
Mark D. RIGGINS
Application No. 08/841,950
Filed: April 8, 1997
For: SYSTEM AND METHOD FOR ENABLING SECURE ACCESS TO SERVICES IN A COMPUTER NETWORK

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed December 4, 2003.

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 communication 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 U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: Jinntung Su
MANATT, PHELPS & PHILLIPS LLP
1001 Page Mill Road
Building 2
Palo Alto, CA 94304

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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JINNTUNG SU
MANATT, PHELPS LLP
1001 PAGE MILL ROAD
BUILDING 2
PALO ALTO, CA 94203

COPY MAILED

FEB 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Mark D. Riggins	:	
Application No. 08/841,950	:	ON PETITION
Filed: April 8, 1997	:	
Attorney Docket No. 40827.00004	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 26, 2006, 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 13, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

It is noted that the address given on the petition slightly differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03.

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

The application is being referred to Technology Center AU 2135 for further processing of the request for continued examination under 37 CFR 1.114 filed January 27, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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
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JINNTUNG SU
MANATT, PHELPS LLP
1001 PAGE MILL ROAD
BUILDING 2
PALO ALTO, CA 94203

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OCT 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Mark D. Riggins	:	
Application No. 08/841,950	:	ON PETITION
Filed: April 8, 1997	:	
Attorney Docket No.: 40827.00004	:	

This is a decision on the petition, filed October 10, 2006, 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 14, 2006, using a Certificate of Mailing or Transmission under 37 CFR 1.8 dated August 10, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2135 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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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PAMELA S. MERKADEAU
MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO, CA 94304

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark D. Riggins	:	
Application No. 08/841,950	:	DECISION ON PETITION
Filed: April 8, 1997	:	TO WITHDRAW
Attorney Docket No. 25587-033-004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 12, 2007.

The request is **APPROVED**.

The request to withdraw as attorney is signed by Pamela S. Merkadeau on behalf of herself and all the attorneys/agents associated with Customer Number 36614. However, a review of the record indicates that Pamela S. Merkadeau and the attorneys associated with Customer Number 36614 do not have power of attorney in this patent application; but, have been employed or otherwise engaged in the proceedings in this patent application. In view of the present request, Attorney Pamela S. Merkadeau and any attorneys/agents associated with Customer Number 36614 are considered withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

All future communications from the Office will be directed to the address of record.

There is an outstanding Office action mailed June 1, 2007 that requires a reply from the applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/841,950	04/08/1997	MARK D. RIGGINS	303600US91

CONFIRMATION NO. 3712

OC000000024390833

22850
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Date Mailed: 06/15/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/22/2007.

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

Sherry D. Brinkley

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NOV 6 2002

Hoffman, Wasson, & Gitler, PC
2361 Jefferson Davis Highway
Suite 522
Arlington VA 22202

Paper No. 5

In re Application of Amiram Steinberg Serial No. : 08/842,680 Filed : April 15, 1997 For : Bone Growth Promoting Implant	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request filed October 15, 2002 to review the holding of abandonment mailed September 24, 2002 for failure to respond to the Office action mailed September 14, 2001. The basis for the request is that applicant did not receive the communications mailed September 14, 2001.

Petitioner asserts that the Office action of September 14, 2001 was mailed to the wrong address and submits a copy of a Revocation of Power of Attorney and Appointment of New Power of Attorney that was received by the Office on August 14, 2001. The copy submitted by petitioner bears a PTO stamp dated August 14, 2001.

In view of the above, it is clear that the Office action in question was mailed to the wrong address. Accordingly the abandonment is hereby withdrawn and upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action of September 14, 2001.

Summary: Holding of Abandonment Withdrawn.

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

ak/11/01/02

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
PO BOX 25696
WASHINGTON DC 20007-8696

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SEP 18 2006
OFFICE OF PETITIONS

In re Application of
David W. Leung et al.
Application No. 08/842,827
Filed: April 17, 1997
Attorney Docket No. 077319/0125

ON PETITION

This is a decision on the petition filed April 3, 2006, under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513, or in the alternative, to revive the above identified application, under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.181 is **GRANTED**.
The petition under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

The above-referenced application was held abandoned on March 1, 2006 for failure to timely pay the issue fee in response to the Notice of Allowance mailed November 29, 2005. Accordingly, a Notice of Abandonment was mailed March 28, 2006.

The file record discloses that the Notice of Allowance was mailed on November 29, 2005 to the address of record. However, petitioner contends that it was not received until March 6, 2006. In support, petitioner indicates with a statement from their docketing specialist, that a search of the docket records revealed that the office communication was not received until March 6, 2006. Petitioner submits a copy of the docket report that covers November 29, 2005 through March 6, 2006, wherein receipt of the office communication would have been entered, had it been timely received, to

---

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

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

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

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

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

substantiate the claim. The statement and attachments corroborate that the Notice of Allowance was not received until March 6, 2006, although the address of record was prominently displayed and properly addressed.

Since it can't be discerned why the office communication was not promptly delivered until after the due date for payment of the issue fee, and in view of the facts set forth in the petition, it is concluded that the Notice of Allowance was not timely received. Accordingly, the holding of abandonment is withdrawn.

In view of the above, no petition fees are due. As well, there is no need to treat the petition under 37 CFR 1.137(b). The petition fee in the amount of $750 pursuant to 37 CFR 1.17(l) will be credited back to deposit account no. 19-0741.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division to be processed into a patent.

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 : 04/05/10

TO SPE OF : ART UNIT 2741

SUBJECT : Request for Certificate of Correction for Appl. No.: 08843033 Patent No.: 5963557

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

SPE

2971
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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AMB 05-01

Paper No. 20

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MAY 24 2001

OFFICE OF PETITIONS
A/C PATENTS

WARD & OLIVE
708 THIRD AVENUE
NEW YORK, NY 10017

In re Application of :
Mann :
Application No. 08/843,162 : PETITION
Filed: April 11, 1997 :
For: PORTABLE TREESTAND WITH A :
RECLINING AND RETRACTABLE SEAT :

This is a decision on the petition filed March 8, 2001 under 37 CFR 1.181 requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition is **DISMISSED**.

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

The application became abandoned August 25, 2000. The application was abandoned for failure to timely respond to the non-final Office action mailed July 24, 2000. The non-final Office action set a one (1) period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were requested. Notice of Abandonment was mailed February 26, 2001.

Petitioner asserts non-receipt of the July 24, 2000 Office action and requests that the holding of abandonment be withdrawn.

Petitioner has provided no evidence to support the assertion of non-receipt of the Office action. The instant petition is not supported by documentary evidence to overcome the presumption that the communication was properly mailed to the applicant at the correspondence address of record. The standard for overcoming the presumption of receipt of an Office communication is set forth in Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971). Petitioner's attention is also directed to MPEP 711.03(c) for further guidance on this matter.

Should petitioner wish to have the holding of abandonment reconsidered, a thorough explanation supported by documentary evidence consistent with the guidelines set forth under Delgar v.

Schuyler, supra, and MPEP 711.03(c) must be submitted.

Petitioner is advised that should the petition to withdraw the holding of abandonment be granted upon renewed petition, the Office action of July 24, 2000 will be remailed and a new period of time for reply instated.

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

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: (703) 308-6916

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 03C23
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 22

WARD & OLIVE
708 THIRD AVENUE
NEW YORK, NY 10017

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AUG 2 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Mann :
Application No. 08/843,162 : ON RENEWED PETITION
Filed: April 11, 1997 :
For: PORTABLE TREESTAND WITH A :
RECLINING AND RETRACTABLE SEAT :

This is a decision on the renewed petition filed June 11, 2001 under 37 C.F.R. § 1.181 requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition is **GRANTED**.

The application was held abandoned August 25, 2000. The application was abandoned for failure to timely respond to the non-final Office action mailed July 24, 2000. The non-final Office action set a one (1) month period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were requested. Notice of Abandonment was mailed February 26, 2001. A petition to withdraw the holding of abandonment was filed March 8, 2001 and dismissed May 26, 2001.

Petitioner asserts non-receipt of the July 24, 2000 Office action and requests that the holding of abandonment be withdrawn.

A review of the evidence presented by petitioner has established that the Notice was not received. **The holding of abandonment is hereby withdrawn.**

This application is being forwarded to Technology Center 3600 for re-mailing of the non-final Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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
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MAY 18 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Ward & Olivo
708 Third Ave.
New York NY 10017

In re Application of
Jerry E. Mann
Application No. 08/843,162
Filed: April 11, 1997
For: PORTABLE TREESTAND WITH A RECLINING AND RETRACTABLE SEAT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on October 6, 2003.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to the Notice to File Missing Parts (CPA) mailed July 29, 2002. A Notice to that effect was mailed September 26, 2003.

The petitioner states that a response was filed by mail with a Certificate of Mailing dated August 15, 2002.

Any petition to withdraw the holding of abandonment based upon a Certificate of Mailing must provide the following:

(1) A copy of the original response bearing a signed Certificate of Mailing which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of mailing the original response on the date indicated on the Certificate of Mailing (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above, the petition fails under requirement (2) to provide a proper statement under 37 CFR 1.8(b)(3) attesting to personal knowledge of mailing the original response on the date indicated on the certificate, by the person who signed the certificate. Although a statement has been provided by David Hill, it fails to attest to personal knowledge of mailing the original response on the date indicated on the certificate. The statement that "our records indicate" does not constitute "personal knowledge" of the person who mailed the original response.

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(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/mjz: 5/10/04

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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Ward & Olive
708 Third Avenue
New York, NY 10017

MAILED

JUL 14 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re Application of
Jerry E. Mann
Application No. 08/843,162
Filed: April 11, 1997
For: PORTABLE TREESTAND WITH A RECLINNING AND RETRACTABLE SEAT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on May 24, 2004.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Mailing/Transmission signed on August 15, 2002 . and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

KJD/vdb: 7/8/04

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

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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JUN - 6 2005

WARD & OLIVE
708 THIRD AVENUE
NEW YORK, NY 10017

In re application of Jerry E. Mann Application No. 08/843,162 Filed: April 11, 1997 For: APPARATUS FOR A RECLINING AND RETRACTABLE SLING SEAT FOR USE WITH A PORTABLE HUNTING TREE STAND	:	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on March 23, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED** .

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Mann indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED** .

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dew: 05/09/05

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

WARD & OLIVE
708 THIRD AVENUE
NEW YORK NY 10017

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SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of :
Jerry E. Mann :
Application No. 08/843,162 :
Filed: April 11, 1997 :
Attorney Docket No.: 515-001 :
Title: APPARATUS FOR A :
RECLINING AND RECTRACTABLE :
SLING SEAT FOR USE WITH A :
PORTABLE HUNTING TREE STAND :

DECISION ON PETITION
UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on June 12, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 18, 2005, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 19, 2005. A notice of abandonment was mailed on October 28, 2005.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the

proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

37 C.F.R. §1.181(f) sets forth that any petition submitted under Rule §1.181 that is not "filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely." It is noted that the present petition was not filed until more than seven months had passed since the mailing of the notice of abandonment. Petitioner is reminded that delays such as occurred can result in loss of rights and care must be taken to avoid such.

With the present petition, Petitioner has asserted that both an amendment and a petition for a three-month extension of time were filed on September 19, 2005[1]. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated September 19, 2005.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received. Petitioner has further included a copy of his postcard receipt, which contains a date stamp of November 3, 2005.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous submission, provided an additional copy of the previous mailing, and has included a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely transmission.

It is further noted that Office records reflect that the $510 fee associated with the filing of a petition for a three-month extension of time was received in the Office on November 3,

1 It is noted that September 18, 2005 fell on a Sunday.

2005. Moreover, the electronic file has been reviewed - a copy of this submission has been located, and this submission was received in the Office on November 3, 2005.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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 which was received on November 3, 2005 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FULWIDER PATTON
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10TH FLOOR
LOS ANGELES, CA 90045

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of Bagaoisan et al.	:	
Reissue Application No. 08/843,711	:	
Reissue Filing Date: April 16, 1997	:	Decision on Petition
Reissue of Patent No. 5,498,240	:	
Original Issue Date: March 12, 1996	:	
Attorney Docket No. ACSC 59868	:	

This is a decision on the petition under 37 CFR 1.181, filed June 13, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed November 1, 2005. The Office action set an extendable period for reply of 2 months.

A Notice of Abandonment was mailed May 26, 2006. The Notice stated a reply was never filed in response to the November 1, 2005 Office action.

A review of the Image File Wrapper indicates the presence of the original reply. The reply is date-stamped January 3, 2006. Since January 1, 2006, was a Sunday, and January 2, 2006, was a federal holiday, the reply was timely. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3306 will be informed of the instant decision and the examiner will consider the reply filed on January 3, 2006, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 11 2007

OFFICE OF PETITIONS

MCCORMICK PAULDING AND HUBER
CITYPLACE II
185 ASYLUM STREET
HARTFORD, CT 06103-4102

In re Application of :
Menard, et al. :
Application No. 08/844,267 : ON PETITION
Filed: April 18, 1997 :
Attorney Docket No. 148-1123

This is a decision on the "Petition to withdraw Abandonment under 37 CFR 1.181(a) and MPEP 711.03(c), or in the alternative, Petition to Revive Abandoned Application Due to Unavoidable delay under 37 CFR 1.137(a), or in the alternative, petition to revive Abandoned Application Due to Unintentional Delay under 37 CFR 1.137(b).", filed November 8, 1999.

The petition under 37 CFR 1.181(a) is **DISMISSED**.

The petition under3 7 CFR 1.137(a) is also **DISMISSED**.

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

The above-identified application became abandoned for failure to reply to the "Notice of Allowability" mailed April 9, 1999, requiring formal drawings. The notice set an shortened statutory period for reply of three months from its mailing date. A response to the Notice of Allowability was not received within period set for reply. The application became abandoned on July 10, 1999. A Notice of Abandonment was mailed on November 8, 1999.

TREATMENT UNDER 37 CFR 1.181(a)

Petitioner maintains that the holding of abandonment should be withdrawn because the examiner failed to indicate on the summary sheet for the Notice of Allowability that formal drawings were required, although the requirement for formal drawings was made in the accompanying text of the Notice of Allowability. Petitioner's argument is not persuasive. A petition to withdraw the holding of abandonment is reserved for those instances when an application is improperly placed in an abandoned status by the USPTO. In this case, a requirement for formal drawings was made in the Notice of Allowability and no response was received within the period set for reply. The application was properly abandoned, accordingly. The petition to withdraw the holding of abandonment is not appropriate where, as in this case, an application is properly abandoned but said abandonment was unavoidable or unintentional. The petition to withdraw the holding of abandonment is dismissed.

TREATMENT UNDER 37 CFR 1.137(a)

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

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"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. The Commissioner's interpretation of those provisions is entitled to considerable deference."[1]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[2]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[3]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[4]

---

[1]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (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 (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or 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.")

[2]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[3]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[4]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[5]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[6] Nonawarness of a PTO rule will not constitute unavoidable delay.[7]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner essentially asserts that a clerical and or docketing error resulted the failure to file the formal drawings.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail is addressed below.

When a clerical error is alleged to be the reason for the delay in responding to an Office action, Section 711.03(c) of the *Manual of Patent Examining Procedure* explains that petitioner must establish 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.

In this case, petitioner is arguing that a clerical error resulted petitioner's failure to notice the requirement for formal drawings made in the Notice of Allowability. Petitioner has not established, however, that there was a reliable business routine in place for performing the clerical function, i.e, reading the Notice of Allowability entirely, and did not provide specific

---

[5]Id.

[6]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[7]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)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

information regarding the training and experience of the employee(s) charged with that function. The petition under 37 CFR 1.137(a) is, therefore, dismissed.

TREATMENT UNDER 37 CFR 1.137(b)

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

The formal drawings filed November 8, 1999, are noted and made of record.

The application file will be forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,177,938	2001-01-23	08/844,466	1997-04-18	MNKYP001A

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	/Eric Justin Gould Bear, MONKEYmedia, Inc./	Date (YYYY-MM-DD)	2008-10-07
Name	Eric Justin Gould Bear, MONKEYmedia, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	009857	Frame Number	0292
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. 6177938
Issue Date: January 23,2001
Application No. 08844466
Filed: April 18,1997
Attorney Docket No. MNKYP001A

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

This is a decision on the electronic petition, filed October 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 7,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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. 5829909
Issue Date: November 3,1998
Application No. 08844599
Filed: April 21,1997
Attorney Docket No. 20-110P

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

This is a decision on the electronic petition, filed February 1,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 1,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
5,829,909	1998-11-03	08/844,599	1997-04-21	0089.0004

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	/Barbara A. Fisher/	Date (YYYY-MM-DD)	2007-02-01
Name	Barbara A. Fisher	Registration Number	31906

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.

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)
5888555	1999-03-30	08844796	1997-04-22	264.001

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	/Donald V. Tomkins/	Date (YYYY-MM-DD)	2009-03-02
Name	Donald V. Tomkins	Registration Number	48206

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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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. 5888555
Issue Date: March 30,1999
Application No. 08844796
Filed: April 22,1997
Attorney Docket No. UD&LP006B

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

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

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	08/844,856
Filing Date	April 23, 1997
Issued	August 17, 1999
First Named Inventor	Naoto KUSUMOTO
Group Art Unit	2813
Examiner Name	Martin S. Sulsky
Total Number of Pages in This Submission: 7	Attorney Docket Number: 740756-001663

ENCLOSURES *(check all that apply)*

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

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

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

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

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

I hereby certify that this correspondence is being:

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

August 26, 2008
Date

Signature
Lynette E. James
Typed or printed name

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AUG 2 6 2008

Docket No. 740756-1663

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of	)	
Naoto KUSUMOTO et al.	)	Art Unit: 2813
Serial No. 08/844,856	)	Examiner: Martin S. Sulsky
Patent No. 5,940,690	)	Confirmation No. 7764
Issued: August 17, 1999	)	Date: August 26, 2008
Filed: April 23, 1997	)	

For: PRODUCTION METHOD FOR A THIN FILM SEMICONDUCTOR DEVICE WITH AN ALIGNMENT MARKER MADE OUT OF THE SAME LAYER AS THE ACTIVE REGION

Certificate of Transmission

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

Lynette E. James

Lynette E. James

PETITION UNDER 37 CFR 3.81(b)

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

Sir:

Applicants hereby petition that the requirements of 37 CFR 3.81 be waived to enable correction of an error in the omission of the Assignee's name from the front page of U.S. Patent No. 5,940,690. A copy of the request for issuance of a Certificate of Correction is being submitted simultaneously herewith.

In particular, an assignment was filed for Parent Application No. 08/487,166 recorded on August 28, 1995 and recorded at Reel/Frame 7621/0318, which shows the proper Assignment. The error for which correction is herein requested occurred as unintentional failure to provide the Assignee's information in the "ASSIGNEE NAME AND RESIDENCE DATA" section of the Issue Fee Transmittal Form PTOL-85B. Patentees respectfully submit that this error is merely clerical in nature.

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AUG 26 2008

U.S. Patent No. 5,940,690
Application No. 08/844,856
Docket No.740756-1663

The Assignee's name being present on the front page of a patent is important to those reviewing issued patents to designate the true owners of a particular patent. Specifically, it is important for the patentee to properly receive business inquiries from interested parties. It is also important to the interested public so that the proper owners are recognized and available for business discussions, for instance, when the subject patent is noted during a search. Without the requested Certificate of Correction, the patentee could lose potential business opportunities and the public could be misinformed. Consequently, the patentee respectfully requests that the Certificate of Correction be granted in this patent.

A copy of the recorded assignment of Parent Application No. 08/487,166 is submitted herewith as true and accurate proof of the Assignee's name.

✓ The Petition Fee amount of $130.00 under 37 C.F.R. 1.117(h) and any additional fees or overages due in connection with this patent and the requested actions should be applied to Deposit Account No. 19-2380 (740756-1663).

Respectfully submitted,

Anthony J. Canning
Registration No. 62,107

Nixon Peabody LLP
401 9th St., N.W.
Suite 900
Washington, DC 20004
Phone: (202)-585-8000
Fax: (202)-585-8080

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PAGE 3/7 * RCVD AT 8/26/2008 5:37:39 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:866 741 0075 * DURATION (mm-ss):01-14

Docket No. 740756-1663

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 26 2008

In re PATENT application of	)	
Naoto KUSUMOTO et al.	)	Art Unit: 2813
Serial No. 08/844,856	)	Examiner: Martin S. Sulsky
Patent No. 5,940,690	)	Confirmation No. 7764
Issued: August 17, 1999	)	Date: August 26, 2008
Filed: April 23, 1997	)	

For: PRODUCTION METHOD FOR A THIN FILM SEMICONDUCTOR DEVICE WITH AN ALIGNMENT MARKER MADE OUT OF THE SAME LAYER AS THE ACTIVE REGION

Certificate of Mailing under 37 CFR 1.8

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

Lynette J. James

REQUEST FOR CERTIFICATE OF CORRECTION

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

Sir:

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

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

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

PAGE 4/7 * RCVD AT 8/26/2008 5:37:39 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:866 741 0075 * DURATION (mm-ss):01-14

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U.S. Patent No. 5,940,640
Application No. 08/844,856
Docket No.740756-1663

The Assignee's name (i.e., Semiconductor Energy Laboratory Co., Ltd.) was not included on the front page of Patent No. 5,940,690.

This omission was the result of an unintentional failure to provide the Assignee's information in the "ASSIGNEE NAME AND RESIDENCE DATA" section of the Issue Fee Transmittal Form PTOL-85B, submitted May 10, 1999.

As provided by the Notice of Recordation of Assignment Document for Parent Application No. 08/487,166, now Patent No. 5,656,825, (i.e., Reel/Frame 7621/0318) dated August 28, 1995, the assignment was submitted for recordation before the issuance of U.S. Patent No. 5,940,690 on August 17, 1999, and properly assigned interest to Semiconductor Energy Laboratory Co., Ltd.

Thus, for the reasons stated in the accompanying Petition under 37 C.F.R. 3.81(b), Patentee respectfully requests that --Semiconductor Energy Laboratory Co., Ltd.-- be inserted into the text of the front page of U.S. Patent No. 5,940,690.

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

Respectfully submitted,

Anthony J. Canning
Registration No. 62,107

NIXON PEABODY LLP
401 9th Street, N.W.
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JLC/AJC/lej

11109657.1

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 5,940,690

ISSUED : August 17, 1999

INVENTOR(S) : Naoto KUSUMOTO et al.

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

On the front page of the patent, insert the Assignee's name --Semiconductor Energy Laboratory Co., Ltd--.

MAILING ADDRESS OF SENDER:
NIXON PEABODY LLP
401 9th Street, N.W., Suite 900
Washington, D.C. 20004-2128

PATENT NO. 5,940,690

SEND TO: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

11106616.1

United States Patent and Trademark Office

Assignments on the Web > Patent Query

Patent Assignment Abstract of Title

NOTE:Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.

Total Assignments: 1

Patent #: 5656825 **Issue Dt:** 08/12/1997 **Application #:** 08487166 **Filing Dt:** 06/07/1995

Inventors: NAOTO KUSUMOTO, YASUHIKO TAKEMURA, HISASHI OHTANI

Title: THIN FILM TRANSISTOR HAVING CRYSTALLINE SEMICONDUCTOR LAYER OBTAINED BY IRRADIATION

Assignment: 1

Reel/Frame: 007621/0318 **Recorded:** 08/28/1995 **Pages:** 3

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: KUSUMOTO, NAOTO **Exec Dt:** 08/18/1995

TAKEMURA, YASUHIKO **Exec Dt:** 08/11/1995

OHTANI, HISASHI **Exec Dt:** 08/18/1995

Assignee: SEMICONDUCTOR ENERGY LABORATORY CO., LTD.
398, HASE, ATSUGI-SHI
KANAGAWA-KEN, JAPAN 243

Correspondent: SIXBEY, FRIEDMAN, LEEDOM & FERGUSON, PC
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MCLEAN, VIRGINIA 22102

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Web interface last modified: April 20, 2007 v.2.0.1

PAGE 7/7 * RCVD AT 8/26/2008 5:37:39 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/30 * DNIS:2738300 * CSID:866 741 0075 * DURATION (mm-ss):01-14/2008

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Paper No. 17

Donald E. Stout (For Patent Owner)
Antonelli, Terry, Stout & Kraus
Suite 1800
1300 N. 17th Street
Arlington, VA 22209

Enclosure: Copy of Requester Petition filed May 6, 2003

MAILED
JUN 06 2003
REEXAM UNIT

David L. Stewart (For Requester)
ALLEN DYER DOPPELT MILBRATH
& GILCHRIST, P.A.
Suite 1401
Orlando, FL 32802

Enclosures: Request papers deposited December 26, 2002

In re Campana, Jr. et al. Request For Reexamination Proceeding For: U.S. Patent No. 5,819,172 Deposited[1]: April 17, 2003	DECISION DENYING PETITION

This is a decision on the May 6, 2003, third party requestor petition under 37 CFR 1.181 for(1) withdrawal of the notice of April 22, 2003,[2] as improper since jurisdiction is proper, (2) waiver of 37 CFR 1.535(g) and 1.560 to thus permit requestor to participate in a reexamination under 35 U.S.C. 301-307, (3) an order of a Director Initiated Reexamination under 35 U.S.C. 313, and (4) deferral of the effective date for an election required by the April 22, 2003, Notice. The petition is before the Director of the Office of Patent Legal Administration for decision.

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[1] The request papers are stated as having been "deposited," as opposed to "filed," since no filing date has been assigned to the papers.

[2] The April 22, 2003, notice informed requester that the present patent for which *inter partes* reexamination was requested was not eligible for *inter partes* reexamination pursuant to Section 4608 of the American Inventor's Protection Act.

For the reasons set forth below, the petition is denied. In addition, the request papers are being returned to the requester, and the reexamination filing fee submitted with the request papers will be refunded to requester.

REVIEW OF FACTS

1. U.S. Patent No. 5,819,172 (hereinafter, the '172 patent), issued to Campana, Jr. et al., on October 6, 1998, from an application filed on April 23, 1997.

2. On December 26, 2002, reexamination was ordered for five of patent owner's patents. The order for reexamination was issued at the initiative of the Director of the United States Patent and Trademark Office under 37 CFR 1.520. The patents and their assigned control number are: 5,625,670 (90/006,491); 5,631,946 (90/006,492); 5,819,172 (90/006,493); 6,067,451 (90/006,494); and 6,317,592 (90/006,495).

3. The 90/006,493 reexamination proceeding, for the present '172 patent, is pending before the Office, and the Office records do not indicate that a first Office action has issued at this point in time.

4. On April 17, 2003, the present request for *inter partes* reexamination was deposited in the Office by the third party requester.

5. On April 22, 2003, a notice was issued informing requester that the present patent for which *inter partes* reexamination was requested was not eligible for *inter partes* reexamination (pursuant to Section 4608 of the American Inventor's Protection Act). The notice set a two week period for requester to elect to replace the *inter partes* request for reexamination with an *ex parte* request for reexamination under 37 CFR 1.510, pointing out that if such an election was not received within the two week period, the request papers would be returned to requester.

6. On May 6, 2003, requester filed the instant petition requesting (1) withdrawal of the notice as improper, (2) waiver of 37 CFR 1.535(g) and 1.560 to permit requestor participation in a reexamination under 35 U.S.C. 301-307, (3) a Director Initiated Reexamination under 35 U.S.C. 313, and (4) deferral of the effective date for an election required by the notice.

DECISION

The petition sets forth, at page 1, a request for four types of relief using the conjunction "and" which would appear to indicate that all four types of relief are requested together (i.e., additive grounds). It is, however, clear from the remainder of the petition that the four types of relief requested by petitioner are alternative grounds of relief, and each will be addressed below, in turn, to the extent appropriate.

I. "[W]ithdrawal of the notice of April 22, 2003 as improper since jurisdiction is proper."

The reexamination statute was amended on November 29, 1999, by the 1999 American Inventors Protection Act (AIPA), Public Law 106-113, to expand reexamination by providing an "*inter partes*" option.[3] Section 4608 (effective date) of the AIPA provides:

> "(a) In General. — ... this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act [November 29, 1999] and shall apply to any patent that issues from an original application filed in the United States on or after that date [November 29, 1999]." [emphasis added]

As was pointed out in the April 22, 2003, notice, the application for the patent for which the present reexamination was requested was filed prior to November 29, 1999 (the date of enactment of the AIPA), and, accordingly, the instant patent is not eligible for *inter partes* reexamination.

At pages 4-7 of the present petition, legislative history is presented and discussed with respect to circumstances surrounding the providing of *inter partes* reexamination in the enactment of the AIPA. These circumstances do not change the fact that the legislation was enacted by Congress, and it was signed into law by the President of the United States of America. In addition, while legislative history is useful in interpreting statutory language where the language of the statute is open to interpretation, in the present instance, the plain language of the statute is clear and not ambiguous. The enacted "subtitle and the amendments" made thereby are clearly stated (in Section 4608) to apply "to any patent that issues from an original application filed in the United States on or after" the date of enactment (November 29, 1999). The application for the patent for which the present reexamination was requested was filed prior to that date, and thus is not eligible for *inter partes* reexamination, pursuant to the *clear language* of the statute.

At page 2 of the petition, it is argued that Congress reconsidered Section 4608 of the AIPA, and repealed it "by implication" by way of "at least sections 13106 and 13202 of Public Law 107-273[4] "[Footnote for the enactment added].

In response, note that Section 13106 of P.L. 107-273 is directed solely to *appeals* in *inter partes* reexamination and expands third

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[3] See Title IV, subtitle F (§§ 4601 through 4608) of the "Intellectual Property and Communications Omnibus Reform Act of 1999," S. 1948 (106th Cong. 1st Sess. (1999)) - Enacted as part of Pub. L. 106-113, 113 Stat. 1501, 1501A-552 through 1501A-591 (1999).

[4] See the 21st Century Department of Justice Appropriations Authorization Act, TITLE III- INTELLECTUAL PROPERTY, Subtitle A - the "Patent and Trademark Office Authorization Act of 2002" - Enacted as part of Pub. L. 107-273, 116 Stat. 1758, 1899-1906 (2002).

party requester rights of appeal in an *inter partes* reexamination proceeding. Further, Section 13202 is directed solely to *appeals* in *ex parte* reexamination and makes statutory technical corrections with respect to same. Neither of Sections 13106 and 13202, nor any other provision of P.L. 107-273, is directed to expanding the eligibility of the pool of patents eligible for *inter partes* reexamination.

Petitioner asserts in the petition that Congress passed the AIPA legislation in haste and did not "substantively consider Section 4608." At page 7 of the petition, applicant states:

> "[W]hen the Justice Department Reauthorization Act was considered, since 4608 was not part of Title 35, it is not likely that Congress was anymore aware at the time of the passage in the Justice Department Reauthorization Act, that there were any limitations on the Inter Partes Reexamination practice by virtue of the date on which a patent issued. As a result, Congress granted, in sections 13106 and 13201 of the Justice Department Reauthorization Act a plenary right of appeal to any third party Inter Partes Reexamination requestor apparently under the assumption that participation rights were a given."

With respect to this point, it is to be noted that Congress had ample time to consider and reconsider Section 4608 of the AIPA, before passing H.R. 2215 (the underlying legislation incorporated as part of Title III, Subtitle A (Patent and Trademark Office) of Public Law 107-273), and its precursor bills. Yet H.R. 2215 did not revise the *inter partes* reexamination eligibility provision, while it did, at the same time, revise other reexamination effective date provisions. This shows a clear intent on the part of Congress to retain the *inter partes* reexamination eligibility provision of Section 4608 of the AIPA as-is, i.e., as it was enacted.

It is further to be noted that revision the *inter partes* reexamination eligibility provision was explicitly placed before Congress by way of Section 3(a) of H.R. 2231 introduced by Congressman Lofgren on June 19, 2001, [5] and referred to the House committee.[6] Yet it was not carried forward in H.R. 2215 which was incorporated into Public Law 107-273. Congress could have chosen to carry forward the substance of Section 3(a) of H.R. 2231, but declined to do so.

In view of the above, the April 22, 2003, notice, is deemed proper, and it will not be withdrawn. The first item of relief requested is accordingly <u>denied</u>.

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[5] 107th CONGRESS, 1st Session

[6] This bill was co-sponsored by Congressman Coble, who introduced the H.R. 1886 *inter partes* reexamination appeal provision which ultimately became Section 13106 of P.L. 107-273 which petitioner advances at page 2 of the petition.

II. "[W]aiver of 37 C.F.R 1.535(g) and 1.560 to permit Requestor to participate in Reexamination under 35 U.S.C. 301-307."

At pages 9-10 of the petition, requester urges that, if it elects to convert the request deposited April 17, 2003, to a request for *ex parte* reexamination, 37 CFR 1.535 and 1.560 should be waived pursuant to 37 CFR 1.183 to permit requester to participate in the reexamination proceeding. At page 15 of the petition, it is requested that *ex parte* reexamination procedure be "expanded by waver of 37 C.F.R 1.535 and 1.560." This is in effect a petition under 37 CFR 1.183 for waiver of the rules (though it was submitted as a "request").

37 CFR 1.4(c) provides that "each distinct subject, inquiry or order must be contained <u>in a separate paper</u> to avoid confusion and delay in answering papers dealing with different subjects." [Emphasis added]

The present request for a waiver of the rules is a distinct "subject" and/or "inquiry," and should have been provided in the form of a <u>separate</u> petition paper under 37 CFR 1.183, accompanied by the petition fee set forth in 37 CFR 1.17(h). Petitioner did not provide the separate petition paper, and did not provide the required petition fee. Accordingly, the issue is not ripe for a decision, and will not be decided herein.

It is, however, pointed out to petitioner that relief by way of a waiver of the rules cannot be provided in this instance, because third party requester participation in an *ex parte* reexamination is barred by statute, and the statute cannot be waived. Neither the rules nor any provision of the statute provide authority for a third party requester of a reexamination proceeding requested under 35 U.S.C. 302 to file a paper directed to the issues of the reexamination proceeding. *In re Amp*, 212 USPQ 826 (Comr. Pats. 1981). The statute and its intent are clear that a reexamination proceeding requested under 35 U.S.C. 302 must be *ex parte*. *Syntex (U.S.A.) Inc. v. U.S. Patent and Trademark Office*, 11 USPQ2d 1866, 1869 (Fed. Cir. 1989) (third parties do not participate before the USPTO).

III. "[T]hat the Patent and Trademark Office order a Director Initiated Reexamination under 35 U.S.C. 313."

At page 15 of the petition, it is stated:

> "If neither of the previous requests for relief a granted, Requestor specifically requests that the Director of the Patent and Trademark Office initiate Inter Partes Reexamination under 35 U.S.C. 313 and allow Requestor to participate."

The present request for a Director Initiated Reexamination must be made via a petition under 37 CFR 1.182, since it is for "a question not specifically provided for." While 37 CFR 1.520 provides that the Director may order a reexamination at his initiative, even where a reexamination has not been requested under 37 CFR 1.510 or 1.913, 37 CFR 1.520 does not provide for a

member of the public to request that the Director order reexamination at his own initiative. Further, 37 CFR 1.520 does not provide for a Director Initiated ***Inter Partes*** Reexamination, and there is no 1.900-series rule that does so. Thus, the present request for a Director Initiated Reexamination is clearly for relief "not specifically provided for in the regulations of this part," and such a request must be made via a petition under 37 CFR 1.182.

As noted above, 37 CFR 1.4(c) provides that each distinct subject, inquiry or order must be contained in a separate paper. The present request for a Director Initiated Reexamination is a distinct "subject" and/or "inquiry," and it should have been provided in the form of a separate petition paper under 37 CFR 1.182, accompanied by the petition fee set forth in 37 CFR 1.17(h). Petitioner did not provide the separate petition paper, and did not provide the required petition fee. Accordingly, the issue is not ripe for a decision, and will not be decided herein.

It is, however, pointed out to petitioner that relief by way of a Director Initiated ***Inter Partes*** Reexamination is not statutorily available to requester. The reference to a Director Initiated Reexamination in 35 U.S.C. 312(a) was explicitly deleted in a technical correction made by Section 13202(a)(2) of Public Law 107-273 (the 21st Century Department of Justice Appropriations Authorization Act, enacted November 2, 2002).[7]

Accordingly, the reference to "section 312(a)" made in 35 U.S.C. 313 does not include a Director Initiated Reexamination for *inter partes* reexamination.

IV. "[D]eferral of the effective date for an election required by the Notice."

At page 15 of the petition, it is stated:

> "The Patents Special Projects Advisor indicated that Requestor must elect whether to pursue Inter Partes Reexamination or elect to convert the Inter Partes Request to an Ex Parte Request by the due date. Since that election cannot be reasonably be made without knowing the outcome of Patent and Trademark Office consideration of his petition and since Requestor has made a contingent election, Requestor requests that the requirement of the Patents Special Projects Advisor be held in abeyance until decision on this Petition is received by Requestor."

---

[7] The revision made to 35 U.S.C. 312(a) by P.L. 107-273 is shown as follows in strike-out/underline format:

REEXAMINATION.— Not later than 3 months after the filing of a request for inter partes reexamination under section 311, the Director shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. ~~On the Director's initiative, and at any time, the Director may determine whether a substantial new question of patentability is raised by patents and publications.~~ The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.

The request for a deferral of the effective date for the election required by the Notice must be made via a petition under 37 CFR 1.182, since it is for "a question not specifically provided for." Once again, petitioner has not provided a separate petition paper, nor the required petition fee. Accordingly, the issue is not ripe for a decision. The following is however pointed out to petitioner:

The third party requester has the option to initiate an *ex parte* reexamination of the instant patent by filing a new request for *ex parte* reexamination. Such a filing would not prejudice requestor, as compared to having the present reexamination papers converted at a future time as is requested in the petition. Requester would not be prejudiced because there is no negative consequence that would result from having a later filing date for a reexamination proceeding. Further, the filing fee that accompanied the present request papers is being returned in its entirety, so, requester does not lose any filing fee applied. Thus, the relief requested by petitioner could be obtained via a different avenue, and there would be no ground for granting a petition under 37 CFR 1.182, even if such had been properly filed.

RETURN OF PAPERS

The notice to requester of April 22, 2003 stated, as its last paragraph:

> "The *inter partes* reexamination 'request' papers are being temporarily held in the CRU pending a decision as to whether or not requester wants to replace the *inter partes* request for reexamination with an ex parte request for reexamination under 37 CFR 1.510. **If such decision is NOT received within two (2) weeks from the mailing date of this letter, the request papers will be returned to the requester."**

The instant petition was filed within the two week period; however, an election was not made in the petition.

At page 9 of the petition, a "Conditional Election" is stated as follows:

> "...if the Inter Partes Request for Reexamination of eight NTP patents is not granted, applicants elect to convert those Inter Partes Reexamination requests to ex parte requests, provided that the provisions of 37 C.F.R. 1.535 (g) and 1.560 are waived to permit requestor participation." [Emphasis added]

A waiver of 37 CFR 1.535(g) and 1.560 has not been granted in this decision; thus, the stated conditional election does not take effect.

In addition, the requested deferral of the effective date for an election required by the April 22, 2003, Notice has not been granted. Accordingly, the request papers are being **returned** with this decision.

The petition, and the present decision on the petition will be made of record in the patent file.

LACK OF SERVICE

The requisite proof of service (a Certificate of Service) on the patent owner was not included with the instant petition papers. Pursuant to 37 CFR 1.903

> "... any document filed by either the patent owner or the third party requester must be served on every other party in the reexamination proceeding in the manner provided in § 1.248. Any document must reflect service or the document may be refused consideration by the Office. The failure of the patent owner or the third party requester to serve documents may result in their being refused consideration."

Accordingly, the requester's petition is deficient for failure to reflect service of the response on the patent owner in accordance with 37 CFR 1.903.

Since the requisite proof of service on patent owner has not been included, a copy of the petition is being provided to the patent owner with this decision.

REFUND OF REEXAMINATION FILING FEE

The present deposit of an *inter partes* reexamination was made in error for the reasons set forth above. Pursuant to 35 U.S.C. § 42(d), "[t]he Director may refund any fee paid by mistake...." Accordingly, **a refund** of the $8,800 reexamination filing fee will be made to requester in due course by return of the check that was submitted with the request.

THIRD PARTY REQUESTER'S RECOURSE

In the event that the third party requester desires to initiate an *ex parte* reexamination of the instant patent, requester may wish to consider filing a new request for *ex parte* reexamination. Such a filing should include a specific identification of each substantial new question of patentability based on the cited patents and printed publications, as well as a detailed explanation of the pertinency and manner of applying the patents and publications to every claim for which reexamination is requested.

CONCLUSION

1. The third party requestor petition filed May 6, 2003, pursuant to 37 CFR 1.181, is denied.

2. The request papers deposited April 17, 2003, are being returned to the requester with this decision.

3. The requestor petition filed May 6, 2003, and this decision will be made of record in the patent file.

4. A refund of the $8,800 reexamination filing fee will be made to requester by return of the check that was submitted with the request papers.

5. A copy of the requester petition filed May 6, 2003, is being sent to the patent owner, along with this decision.

6. Telephone inquiries with regard to this decision should be directed to Kenneth M. Schor, Senior Legal Advisor, at 703-308-6710.

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

June 3, 2003
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Paper No. 18

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MAILED

JUN 12 2003

REEXAM UNIT

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(For Requester)

In re Campana, Jr. et al.
Request for *Inter Partes* Reexamination Proceeding
For: U.S. Patent No. 5,819,172
Deposited[1]: April 17, 2003

: **SUPPLEMENTAL**
: **DECISION**
: **DENYING**
: **PETITION**

This is a supplemental decision to the decision mailed on June 6, 2003, on the third party requester's petition of May 6, 2003. The June 6, 2003, decision denied the third party requester petition under 37 C.F.R. § 1.181 for (1) withdrawal of the notice of April 22, 2003,[2] as improper

[1] The request papers are stated as having been "deposited, " as opposed to "filed," since no filing date has been assigned to the papers.

[2] The April 22, 2003, notice informed requester that the present patent for which *inter partes* reexamination was requested was not eligible for *inter partes* reexamination pursuant to Section 4608 of the American Inventor's Protection Act.

since jurisdiction is proper, (2) waiver of 37 C.F.R. § 1.535(g) and § 1.560 to thus permit requester to participate in a reexamination under 35 U.S.C. 301-307, (3) an order of a Director Initiated Reexamination under 35 U.S.C. 313, and (4) deferral of the effective date for an election required by the Notice of April 22, 2003. This matter is before the Director of the Office of Patent Legal Administration for clarification.

For the reasons set forth in the decision of June 6, 2003, the petition was denied. In addition, the decision stated that the "request papers" and the reexamination filing fee submitted with the request papers were returned to the requester. This supplemental decision clarifies what was returned as the "request papers."

REVIEW OF FACTS

1. U.S. Patent No. 5,819,172 (hereinafter, the '172 patent), issued to Campana, Jr. et al., on October 6, 1998, from an application filed on April 23, 1997.

2. On April 17, 2003, a request for *inter partes* reexamination was deposited in the Office by the third party requester. The deposited request comprised "request papers" which include a statement that reexamination is requested, a table of contents (of the prior art references), a reference to the filing fee, and a copy of the '172 patent. In addition, the request included two boxes containing the copies of the references cited in the request, as well as claim charts interspersed therewith.

3. A notice was mailed on April 22, 2003, informing requester that the present patent for which *inter partes* reexamination was requested is **not eligible** for *inter partes* reexamination (pursuant to Section 4608 of the American Inventor's Protection Act). The notice set a two week period for requester to elect to replace the *inter partes* request for reexamination with an *ex parte* request for reexamination under 37 C.F.R. § 1.510, pointing out that if such an election was not received within the two week period, the request papers would be returned to requester.

4. On May 6, 2003, requester filed a petition requesting (1) withdrawal of the notice as improper, (2) waiver of 37 C.F.R. § 1.535(g) and § 1.560 to permit requester participation in a reexamination under 35 U.S.C. 301-307, (3) a Director Initiated Reexamination under 35 U.S.C. 313, and (4) deferral of the effective date for an election required by the notice.

5. A decision denying the petition was mailed on June 6, 2003[3].

[3] The address portion of the decision of June 6, 2003, inadvertently indicated that the enclosures sent to requester were request papers deposited December 26, 2002. The body of the decision, however, correctly states in the Conclusion on page 10 that the request papers being returned to requester were deposited on April 17, 2003.

CLARIFICATION RE: RETURN OF PAPERS

The Notice to requester mailed on April 22, 2003, stated in its' last paragraph:

> "The *inter partes* reexamination 'request' papers are being temporarily held in the CRU pending a decision as to whether or not requester wants to replace the *inter partes* request for reexamination with an *ex parte* request for reexamination under 37 C.F.R. § 1.510. **If such decision is NOT received within two (2) weeks from the mailing date of this letter, the request papers will be returned to the requester.**"

The petition of May 6, 2003, was filed within the two week period, however, an election was not made in the petition. In addition, the requested deferral of the effective date for an election required by the Notice of April 22, 2003, was not granted. Accordingly, the reexamination request was returned with the decision mailed June 6, 2003.

This supplemental decision clarifies that only the "request papers" were in fact returned with the June 6, 2003, decision; the boxes containing *inter alia* the references were not returned. The request papers which were returned include a statement that reexamination is requested, a table of contents (of the prior art references), a reference made as to the filing fee, and a copy of the '172 patent. The two boxes containing the copies of references cited in the request, as well as the claim chart interspersed therewith, were **not** returned **due to their voluminous nature**.

The boxes of reference copies which accompanied the request for *inter partes* reexamination are being temporarily held in the Central Reexamination Unit (CRU). If the third party requester desires a return of the boxes, then requester should promptly make arrangements to pick up such boxes from the CRU **within one month** of the mailing date of this supplemental decision. Requester should immediately notify Marsha Twitty of the CRU, at telephone number (703) 308-9692, of any arrangements that have been made to pick up such boxes. If the boxes are **not** picked up **within one month** of the mailing date of this supplemental decision, **the CRU may dispose of such boxes.**

The petition, the previous petition decision and the present supplemental decision denying the petition will be made of record in the patent file.

THIRD PARTY REQUESTER'S RECOURSE

As indicated in the previous petition decision, in the event that the third party requester desires to initiate an *ex parte* reexamination of the instant patent, requester may wish to consider filing a new request for *ex parte* reexamination pursuant to 37 C.F.R. § 1.510.

In this regard, note that the **mailing address** for the U.S. Patent & Trademark Office has **changed, as of May 1, 2003.**

All new **requests for an *ex parte* reexamination proceeding** should be directed:

by Mail to: Mail Stop *Ex Parte* Reexam
Central Reexamination Unit
Office of Patent Legal Administration
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

All correspondence relating to an *inter partes* reexamination proceeding (a new request may not be submitted by FAX) should be directed:

by Mail to: Mail Stop *Inter Partes* Reexam
Central Reexamination Unit
Office of Patent Legal Administration
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

by FAX to: (703) 305-1013
Central Reexamination Unit

By hand: Central Reexamination Unit
Crystal Plaza Three-Four, 3D68
2201 South Clark Place
Arlington, VA 22202

CONCLUSION

1. The third party requester petition filed May 6, 2003, pursuant to 37 C.F.R. § 1.181, was denied in a decision mailed on June 6, 2003, and the present decision is supplemental to that decision.

2. The request for *inter partes* reexamination deposited April 17, 2003, was returned to the requester with the petition decision of June 6, 2003. The return of the request included a refund of the $8,800 reexamination filing fee by return of the check that was submitted with the request and marked void.

3. The boxes of reference copies (including the claim chart interspersed with the reference copies) were not returned with the decision mailed on June 6, 2003, and the boxes are being temporarily stored in the CRU.

4. If the third party requester desires a return of the boxes, then requester should promptly make arrangements to pick up such boxes from the CRU **within one month** of the mailing date of this supplemental decision.

5. If the boxes are **not** picked up **within one month** of the mailing date of this supplemental decision, then the CRU **may dispose of such boxes**.

6. This decision will be made of record in the patent file, to accompany the petition and the June 6, 2003, decision.

7. Telephone inquiries with regard to this decision should be directed to Lynn M. Kryza, Patent Special Projects Advisor, at (703) 308-0255 or Kenneth Schor, Senior Legal Advisor, at (703) 308-6710. Telephone inquiries with regard to making arrangements for picking up the boxes of references presently stored in the CRU should be directed to Marsha Twitty at (703) 308-9692.

6/12/03

Robert J. Spar
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 20

Donald E. Stout (For Patent Owner)
Antonelli, Terry, Stout & Kraus
Suite 1800
1300 N. 17th Street
Arlington, VA 22209

MAILED
NOV 25 2003
REEXAM UNIT

Enclosure: Copy of Requester Petition filed July 31, 2003

David L. Stewart (For Requester)
ALLEN DYER DOPPELT MILBRATH
& GILCHRIST, P.A.
Suite 1401
Orlando, FL 32802

Enclosure: Reexamination request papers deposited April 17, 2003

In re Campana, Jr. et al. Request For Reexamination Proceeding For: U.S. Patent No. 5,819,172 Deposited[1]: April 17, 2003	DECISION DENYING PETITION

This is a decision on the July 31, 2003, third party requestor petition titled "Petition to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, in Person, from a Decision of the Director of the Office of Patent Legal Administration under 37 C.F.R. § 1.181."

The petition is **granted** to the extent that the June 6, 2003, and June 12, 2003, decisions of the Director of the Office of Patent Legal Administration (OPLA) have been reviewed by a higher level official within the United States Patent and Trademark Office (Office), but is **denied** as to overturning the decision by the Director of OPLA.

[1] The request papers are stated as having been "deposited," as opposed to "filed," since no filing date has been assigned to the papers.

REVIEW OF FACTS

1. U.S. Patent No. 5,819,172 (hereinafter, the '172 patent), issued to Campana, Jr. et al., on October 6, 1998, from an application filed on April 23, 1997.

2. On December 26, 2002, reexamination was ordered for five of patent owner's patents. The order for reexamination was issued at the initiative of the Director of the United States Patent and Trademark Office under 37 CFR 1.520. The patents and their assigned control number are: 5,625,670 (90/006,491); 5,631,946 (90/006,492); 5,819,172 (90/006,493); 6,067,451 (90/006,494); and 6,317,592 (90/006,495). The 90/006,493 reexamination proceeding, for the present '172 patent, is pending before the Office.

3. On April 17, 2003, the present request for *inter partes* reexamination was deposited in the Office by the third party requester.

4. On April 22, 2003, a notice was issued informing requester that the present patent for which *inter partes* reexamination was requested was not eligible for *inter partes* reexamination (pursuant to Section 4608 of the American Inventor's Protection Act). The notice set a two week period for requester to elect to replace the *inter partes* request for reexamination with an *ex parte* request for reexamination under 37 CFR 1.510, pointing out that if such an election was not received within the two week period, the request papers would be returned to requester.

5. On May 6, 2003, the requester filed a petition under 37 CFR 1.181, requesting (1) withdrawal of the notice as improper, (2) waiver of 37 CFR 1.535(g) and 1.560 to permit requestor participation in a reexamination under 35 U.S.C. 301-307, (3) a Director Initiated Reexamination under 35 U.S.C. 313, and (4) deferral of the effective date for an election required by the notice.

6. A decision of the Director of OPLA was mailed on June 6, 2003, and supplemented on June 12, 2003, in which the requestor petition under 37 CFR 1.181 filed May 6, 2003, was denied,[2] and for return of the deposited request papers to the requester.

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[2] Some of the issues raised in the May 6th petition were found not to be ripe for decision, and were not decided.

7. On June 24, 2003, the requester filed a request for an ***ex parte*** reexamination of the '172 patent, which was assigned control number 90/006,680.

8. On July 31, 2003, the requester filed the present petition under 37 CFR 1.181, for review of the decision of the Director of OPLA.

9. Also on July 31, 2003, the requester filed a petition under 37 CFR 1.183 requesting waiver of '37 CFR §§ 1.535, 1.550(g) and 1.560, to permit third party requester participation in the examination stage of the 90/006,680 *ex parte* reexamination proceeding.

REQUEST FOR PERSONAL REVIEW BY THE DIRECTOR

The petition is addressed to the Director of the United States Patent and Trademark Office (the Director). It is inappropriate and not feasible for the Director to personally review all papers requesting relief that are directed to him; such personal review is not a matter of right and lies within the sound discretion of the Director. *See Corrigan v. v. Alexeevsky, et al.*, 200 USPQ 368(Comr. Pat. 1978), *In re Staeger*, 189 USPQ 284 (Comr. Pat. 1974) The Director will not review a decision in person except in unusual or exceptional circumstances. *See Id.* In the present instance, the petition does not present unusual and exceptional circumstances that would justify the requested "In Person" review by the Director. Inasmuch as the authority for deciding petitions from a Decision of the Director of OPLA has been delegated to the Deputy Commissioner for Patent Examination Policy, the instant petition has been forwarded to the Deputy Commissioner for Patent Examination Policy for treatment as a petition under 37 CFR 1.181(a)(3) requesting review of the decision of the Director of OPLA by a higher level Office official.

DECISION

1. In his June 6, 2003, decision, the Director of OPLA found that the instant patent is not eligible for *inter partes* reexamination, and thus, the deposited papers requesting an *inter partes* reexamination of instant patent are to be returned to the requester. The present petition takes issue with, and seeks review of, that finding. As pointed out in the June 6th decision:

The reexamination statute was amended on November 29, 1999, by the 1999 American Inventors Protection Act (AIPA), Public Law 106-113, to expand reexamination by providing an "*inter partes*" option. [3] Section 4608 (effective date) of the AIPA provides:

> "(a) In General. — ... this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act [November 29, 1999] and shall apply to any patent that issues from an original application filed in the United States on or after that date [November 29, 1999]." [emphasis added]

The application for the instant patent was filed prior to November 29, 1999 (the date of enactment of the AIPA), and, accordingly, the instant patent is not eligible for *inter partes* reexamination.

2. At page 4 of the petition, it is argued that:

> "the position taken in the decision(s) by the Director of the Office of Patent Legal Administration with respect to Section 4608 prohibits the PTO from declaring, in an Inter Partes proceeding, claims from a parent application to be unpatentable even though they are not patentably distinct from claims in a continuing application [filed on or after November 29, 1999]. In the Requests for Inter Partes Reexamination under consideration in this petition, the PTO has accepted Inter Partes Reexamination status for U.S. Patent No. 6,317,592, even though the claims of many of the above-identified applications are acknowledged as patentably not distinct by the filing of a Terminal Disclaimer."

In response, it is initially to be observed that while the claims from a parent application filed prior to November 29, 1999 cannot be declared "to be unpatentable" in an *inter partes* reexamination proceeding, petitioner is free to file a request for an *ex parte* reexamination proceeding (and has done so) in an effort to have such claims of the parent declared unpatentable. To the extent that petitioner is pointing out that it does not appear consistent to bar *inter partes* reexamination for a parent patent,

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[3] See Title IV, subtitle F (§§ 4601 through 4608) of the "Intellectual Property and Communications Omnibus Reform Act of 1999," S. 1948 (106th Cong. 1st Sess. (1999)) - Enacted as part of Pub. L. 106-113, 113 Stat. 1501, 1501A-552 through 1501A-591 (1999).

while such is permitted for a continuation having patentably indistinct claims, this is simply the result mandated by the effective date provision (section 4608) of the *inter partes* reexamination provisions of the AIPA. It is not within the authority of the Office to permit an *inter partes* reexamination for the instant patent, since the effective date provision (section 4608) of the *inter partes* reexamination provisions of the AIPA does not make the *inter partes* reexamination provisions of the AIPA applicable to a patent resulting from an application filed before November 29, 1999, simply because that patent contains one or more claims which are not patentably distinct from a patent resulting from an application filed on or after November 29, 1999, (and to which the *inter partes* reexamination provisions of the AIPA would apply).

3. At page 4 of the petition, it is pointed out that:

> "the position taken in the decision(s) by the Director of the Office of Patent Legal Administration with respect to Section 4608 effectively guts the applicability of Inter Partes Reexamination by limiting its applicability to only 3.9% of patents.... Given the legislative history, described somewhat below, it would require an extraordinary leap to assume that a majority of both houses of Congress intended Inter Partes Reexamination to apply to only 3.9% of issued patents."

As to the "legislative history," page 5 of the petition then presents comments directed to circumstances surrounding the providing of *inter partes* reexamination in the enactment of the AIPA, and as to the viability of using the *inter partes* reexamination process.

In addressing petitioner's argument of Congressional intent and legislative history, the following is to be noted:

Regardless of the circumstances of enactment and comments on viability of the enacted process, the legislation was enacted by Congress, and it was signed into law by the President of the United States of America. While legislative history may useful in interpreting statutory language where the language of the statute is open to interpretation, in the present instance, the plain language of the statute is clear and not ambiguous. The enacted "subtitle and the amendments" made thereby are clearly stated (in Section 4608) to apply "to any patent that issues from an original application filed in the United States on or after" the date of enactment (November 29, 1999). The application for the instant patent, for which the *inter partes* reexamination is

requested, was filed prior to that date; thus, the patent is not eligible for *inter partes* reexamination, pursuant to the *clear language* of the statute.

It is further noted that Congress had ample time to consider and reconsider Section 4608 of the AIPA, before passing H.R. 2215 (the underlying legislation incorporated as part of Title III, Subtitle A (Patent and Trademark Office) of Public Law 107-273), and its precursor bills. Yet H.R. 2215 did not revise the *inter partes* reexamination eligibility provision, while it did, at the same time, revise other reexamination effective date provisions. This shows a clear intent on the part of Congress to retain the *inter partes* reexamination eligibility provision of Section 4608 of the AIPA as-is, i.e., as it was enacted.

4. At pages 7-8 of the petition, a Constitutionality issue is raised. Petitioner argues that:

> "The Decision by the Director of the Office of Patent Legal Administration that the Patent and Trademark Office does not have authority under Section 4608 of the AIPA to accept the above-identified Requests for Inter Partes Reexamination is constitutionally questionable....Issuing a patent that is invalid based on prior art is an unconstitutional act because it gives exclusive rights to individuals who are not "inventors" in a Constitutional sense. Since issuing a patent that is invalid based on prior art is unconstitutional, the PTO has inherent authority to declare such issuance invalid and improper without the need for any authorizing legislation. Section 4608 may be unconstitutional to the extent it purports to limit an Executive Branch Agency (the PTO) in correcting its own unconstitutional acts."

Petitioner then[4] requests that the Office:

> "utilize its inherent Constitutional Authority to ignore 4608 and accept the above-described Requests for Inter Partes Reexamination. Petitioner respectfully requests that the PTO hold Section 4608 of the AIPA to be unconstitutional and accept the above-described Requests for Inter Partes Reexamination.

Petitioner appears to be arguing that the Section 4608 *inter partes* reexamination effective date provision is unwise and should not be adhered to, and that Article I, § 8, cl. 8 of the U.S. Constitution ("Congress shall have the power...[t]o promote the progress of science and useful arts, by securing for limited

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[4] Petition at page 8.

times to authors and inventors the exclusive right to their respective writings and discoveries") provides a basis for the Office to ignore the limitations in the AIPA on the applicability of *inter partes* reexamination. It is brought to petitioner's attention that the Constitution grants Congress the authority to legislate on the subject of patents; it does not provide that there be must a patent office (or a United States Patent and Trademark Office), much less vest the Office with any inherent authority to act or correct its acts. Thus, whatever authority the Office possesses to examine applications, grant patents, or reexamine previously granted patents must be found in the Office's enabling legislation (title 35 U.S.C.). Put simply, the Constitution does not provide the Office with the inherent authority to correct its "mistakes;" rather the Office's authority to correct such "mistakes" is limited to that authority provided to it in title 35, U.S.C. (i.e., 35 U.S.C. chapters 25, 30, and 31). It is further noted that the Federal courts have generally held that the power of Congress to legislate on the subject of patents is plenary by the terms of the Constitution. *See e.g., McClurg v. Kingsland*, 42 U.S. (1 How.) 202, 206 (1843); *see also Owen v. Heimann*, 12 F.2d 173, 174 (D.C. Cir.), cert. denied, 271 U.S. 685 (1926) ("Congress has full power to prescribe to whom and upon what terms and conditions a patent shall issue"); *Kling v. Haring*, 11 F.2d 202, 204-05 (D.C. Cir.), *cert. denied*, 271 U.S. 671 (1926) (same). <u>In any event</u>, administrative agencies do <u>not</u> have the authority to declare unconstitutional the laws they are charged with administering. *See, e.g., Oestereich v. Selective Service Board*, 393 U.S. 233, 242 (1968); *McGowan v. Marshall*, 604 F.2d 885, 892 (5th Cir. 1979); and *Buckeye Industries, Inc. v. Secretary of Labor*, 587 F.2d 231 (5th Cir. 1979).

5. At pages 5-7 of the petition, it is argued that the Section 4608 *inter partes* reexamination effective date provision of the AIPA has been repealed by implication, based upon the legislative expansion of third party requester appeal rights provided by Public Law 107-273. [5] At page 6 of the petition, sections 13106 and 13202 of Public Law 107-273 [6] are relied upon to show that the "broad scope of the right to appeal appears to repeal by implication" the Section 4608 effective date provision.

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[5] The 21st Century Department of Justice Appropriations Authorization Act, enacted on November 2, 2002. *See* Pub. L. 107-273, 116 Stat. 1758, 1899-1906 (2002)

[6] TITLE III- INTELLECTUAL PROPERTY, Subtitle A - the "Patent and Trademark Office Authorization Act of 2002."

In response, Congress is well versed in the mechanism for changing an effective date of prior legislation (as it did in Public Law 107-273 for the eighteen-month publication provisions of the AIPA), and Congress did not do so for the *inter partes* reexamination effective date provisions of the AIPA. It is to be noted that a provision for revision of the *inter partes* reexamination eligibility effective date was explicitly placed before Congress by way of Section 3(a) of H.R. 2231 introduced on June 19, 2001 and referred to the House committee. *See* H.R. 2231, 107th Cong., 1st Sess. (2001). This explicit provision to revise the *inter partes* reexamination eligibility effective date was before Congress; yet, it was *not carried forward* into Public Law 107-273.

As to sections 13106 and 13202 of Public Law 107-273 that are relied upon by petitioner:

Section 13106 of P.L. 107-273 is directed solely to *appeals* in *inter partes* reexamination and expands third party requester rights of appeal in an *inter partes* reexamination proceeding. Section 13202 is directed solely to *appeals* in *ex parte* reexamination and makes statutory technical corrections with respect to same. Neither of Sections 13106 and 13202, nor any other provision of P.L. 107-273, is directed to expanding the pool of patents eligible for *inter partes* reexamination.

THE ULTIMATE HOLDING OF THE DIRECTOR OF OPLA IN THE PROCEEDING

In this instance, the Director of the OPLA found that the instant patent is not statutorily eligible for *inter partes* reexamination, and accordingly, the deposited request papers would be returned to the requester. In the present decision, based upon a plenary review of the record, it has been determined that an *inter partes* reexamination for the present patent is barred by statute, for the reasons set forth above. Accordingly, there is no reversible error and no basis for disturbing the OPLA Director's decisions of June 6, 2003, and June 12, 2003, to return the *inter partes* reexamination request papers. Thus, the present petition is **denied** as to the petition to reverse the decision of the OPLA Director.

WAIVER OF THE RULES TO PERMIT REQUESTOR PARTICIPATION IN *EX PARTE* REEXAMINATION PROCEEDING

As pointed out above the requester filed, on June 24, 2003, a request for ***ex parte*** reexamination of the instant patent (under 35 U.S.C. 302). Beginning at page 8 of the present petition, a discussion is provided as to why requester should be granted a waiver of 37 CFR §§ 1.535, 1.550(g) and 1.560 to permit requestor to participate in the *ex parte* reexamination proceeding that would be conducted, if that reexamination request is granted.[7] This discussion as to the question of waiver is being addressed in a concurrently issued decision on requester's July 31, 2003, petition under 37 CFR 1.183 requesting waiver of 37 CFR §§ 1.535, 1.550(g) and 1.560.[8] Accordingly, the matter is not further addressed herein.

RETURN OF THE REQUEST PAPERS

In the OPLA Director's supplemental decision of June 12, 2003, it was stated that the request for *inter partes* reexamination of the present patent deposited April 17, 2003, was returned to the requester with the petition decision of June 6, 2003, and a refund of the $8,800 reexamination filing fee.[9] It was further stated that the boxes of reference copies were not returned, and such boxes were being temporarily stored in the Central Reexamination Unit (CRU), and the third party requester was given one month to make arrangements to pick up such boxes from the CRU.

At page 13 of the petition, however, it is pointed out that:

> "[a]lthough the decisions of May 6, 2003 stated that the Requests for Inter Partes Reexamination were returned with the decisions, in fact, no such Requests were received with the decisions. Accordingly, Petitioners respectfully request that the above-identified Request for Inter Partes Reexamination continue to be retained by the PTO pending a decision on this Petition."

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[7] Reexamination was subsequently ordered for the proceeding.

[8] That petition seeks to permit third party requester participation in the examination stage of the *ex parte* reexamination proceeding.

[9] The refund was effected by return of the check that was submitted with the request and marked void.

A review of the patent file and the boxes reveals that the original request papers were indeed not returned to the requester. Accordingly, the request papers deposited April 17, 2003, are being returned to the requester with this decision.

It is noted that petitioner requested [10] that the request papers deposited April 17, 2003, "continue to be retained by the PTO pending a final decision on all issues raised by this Petition." The instant decision is such a final decision, as set forth below.

LACK OF SERVICE

The requisite proof of service on the patent owner (a Certificate of Service) was not included with the instant petition papers. Pursuant to 37 CFR 1.903:

> "... any document filed by either the patent owner or the third party requester must be served on every other party in the reexamination proceeding in the manner provided in § 1.248. Any document must reflect service or the document may be refused consideration by the Office. The failure of the patent owner or the third party requester to serve documents may result in their being refused consideration."

Accordingly, the requester's petition is deficient for failure to reflect service of the response on the patent owner in accordance with 37 CFR 1.903.

Since the requisite proof of service on patent owner has not been included, a copy of the petition is being provided to the patent owner with this decision.

CONCLUSION

1. The present petition under 37 CFR 1.181(a)(3) is **granted** to the extent that the June 6, 2003, and June 12, 2003, decisions of the Director of the OPLA have been reviewed, but is **denied** as to overturning the decision by the Director of the OPLA.

2. The petition and this decision will be made of record in the patent file.

---

[10] Petition at page 14.

3. A copy of the petition is being sent to the patent owner, along with this decision.

4. The request papers deposited April 17, 2003, are being returned to the requester with this decision.

5. No further reconsideration or review of this matter will be undertaken by way of petition.

6. This decision may be viewed as a **final agency action** within the meaning of 5 U.S.C. 704, for purposes of seeking judicial review. See MPEP 1002.02.

7. Telephone inquiries with regard to this decision should be directed to Kenneth M. Schor, Senior Legal Advisor, Office of Patent Legal Administration, at 703-308-6710.

Stephen G. Kunin
Deputy Commissioner for
Patent Examination Policy

November 12, 2003
C:\kiva\kenpet4\ip\5,819,172.rcn

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. #15

VIDAS, ARRETT & STEINKRAUS
6109 BLUE CIRCLE DRIVE, SUITE 2000
MINNETONKA, MN 55343-9185

COPY MAILED

JUN 06 2007

OFFICE OF PETITIONS

In re Patent No. 5,922,021	:	
Issue Date: July 13, 1999	:	
Application No. 08/845,657	:	NOTICE
Filed: April 25, 1997	:	
Attorney Docket No. S63.2-10743-US01	:	

This is a notice regarding your request, filed April 17, 2007, for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

As authorized, the $1,130 fee deficiencies will be charged to petitioner's deposit account.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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

JAN 15 2002

#30

In re Application of	:	DECISION
M. Asharaf Imam et al.	:	
Serial Number: 08/845,897	:	ON
Filed: April 28, 1997	:	
For: POROUS METAL/ORGANIC POLYMERIC COMPOSITES	:	PETITION

This is a decision on Applicant's Petition filed May 15, 2001 under 37 CFR 1.181 for withdrawal of examiner's final rejection mailed March 12, 2001. The petition also requests reconsideration of non-entry of after final amendment submitted November 13, 2000.

Applicant petitions the examiner's refusal of entry of the after final amendment because the Examiner stated that the Amendment which sought to change the term from Comprising to "essentially consisting of" raised a new issue that would require further consideration. Applicant contends this statement is in error. Applicant states that in an interview with Exr Roche , the examiner of record, she stated that the term "consisting essentially of" would require a new search and that this transition language did not remove the ability to have "fillers" in the polymer matrix. The examiner is also said to have stated that the transition term, "consisting of" would possibly overcome the Tsang et al. reference and that applicant could file a CPA or 1.81 petition in order for more communication to occur. For this reason, applicant has filed the instant petition.

Applicant seeks relief because applicant does not agree that adding the term "consisting essentially of" would not require a new search. Applicant points to MPEP 2111.03 which states that consisting essentially of will be construed as equivalent to "comprising". The examiner of record has already performed a search involving the transition word "comprising". Therefore no new search is required. However, further consideration would be required and applicant has agreed with this statement.

Applicant is correct in his assertion that the insertion of consisting essentially of includes comprising. Therefore as applicant stated, the claims including "consisting essentially of" have already been searched. However, further consideration would be required. Applicant had submitted the amendment under 1.116 to overcome the rejection over Tsang. The Tsang reference includes the use of fillers that applicant claims would materially affect the fundamental character of the instant invention.

Applicant appears also to seek relief so that other amendments may be added which may overcome the rejections of Tsang and Reitz. The proposed amendments that would delete hardened rubbers and hardened silicone rubbers seek to narrow the scope of the claims that would then require further search and consideration.

Applicant seeks to continue prosecution after the appeal brief has been filed. This is not permissible. Applicant seeks to materially narrow the scope of the claim. Even though the claims have been searched to include "consisting essentially", the insertion of this amendment at this time would, contrary to applicant's assertion, narrow the scope of the claims. This is evidenced by applicant's statement that the Tsang reference would be overcome because then the instant claim could no longer include the fillers. There is also the question that if the fillers that applicant refers to do not materially affect the scope, then why would the fillers of Tsang materially affect the foam of the Tsang reference.

For these reasons, the petition is DENIED.

Sincerely,

Richard W. Fisher

Richard Fisher
Director, Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 11 2008

Michael J. Jaro, Esq.
Chief Patent Counsel
Medtronic Vascular
3576 Unocol Place
Santa Rosa CA 95403

Re: Patent Term Extension
Application for
U.S. Patent No. 5,879,382

ACKNOWLEDGMENT OF WITHDRAWAL OF APPLICATION FOR PATENT TERM EXTENSION

This is in response to the "Withdrawal of Application for Extension of Patent Term," filed February, 11, 2008, of the application for patent term extension for U.S. Patent No. 5,879,382, (S8 Over-the-Wire System).

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
Food and Drug Administration
10903 New Hampshire Ave., Bldg. 51, Rm. 6222
Silver Spring, MD 20993-0002

Attention: Beverly Friedman

RE: S8 Over-the-Wire System
FDA Docket No.: 2004E-0303

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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: BINH NGUYEN	: DECISION ON REQUEST FOR
Patent Number	: 6220954	: RECALCULATION of PATENT
Issue Date	: 04/24/2001	: TERM ADJUSTMENT IN VIEW
Application No	: 08/846,796	: OF WYETH
Filed	: 04/30/1997	:
		:

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

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

MAY 17 2002

LAW OFFICES OF JONATHAN ALAN QUINE
P. O. BOX 458
ALAMEDA, CA 94501

#33

In re Application of	:
Jeffrey L. Cleland et al	:
Serial No.: 08/846,933	: PETITION DECISION
Filed: April 30, 1997	:
Attorney Docket No.: 402E-916903	:

This is a decision on the petition under 37 CFR 1.181, filed February 25, 2002 (Certificate of Mailing dated December 28, 2001), to Withdraw Holding of Abandonment due to a timely filed response not being received by the Office.

A review of the file history shows that the examiner mailed an Office action to applicants on April 23, 2001, setting a three month shortened statutory period for reply. Applicants mailed a reply to the Office on October 23, 2001, accompanied by a request for a three month extension of time and the fee therefore. The Office apparently did not receive the reply and the examiner mailed a Notice of Abandonment to applicants on November 2, 2001. Applicants filed this petition accompanied by a copy of the missing reply on December 28, 2001. In view of the evidence presented, applicants copy of the reply is accepted as timely. The Notice of Abandonment is withdrawn as having been mailed in error and the application is restored to pending status with the mailing of this decision.

Applicants' petition under 37 CFR 1.181 is <u>GRANTED</u>.

The reply will be entered in the file and the fee of $920.00 for a three month extension of time will be charged to applicants' Deposit Account No. 50-0893, as directed. The application will then be forwarded to the examiner for further consideration.

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) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. ~~12~~ 13

M. Paul Barker
Finnegan, Henderson, Farabow,
Gareet & Dunner, LLP.
1300 I Street, N.W.
Washington, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Alan Lewis, et al	:	
Application No. 08/846,996	:	ON PETITION
Filed: May 1, 19997	:	
Attorney Docket No. 8142-124-999	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 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 February 3, 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 May 4, 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.

Telephone inquiries concerning this decision should be directed to Cheryl Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703) 305-9220.

The application file is being forwarded to Technology Center 1600.

Cheryl Baylor
Cheryl Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Sherry Brinkley
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. 5963650
Issue Date: October 5,1999
Application No. 08847194
Filed: May 1,1997
Attorney Docket No. 97030801

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

This is a decision on the electronic petition, filed October 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
5963650	1999-10-05	08847194	1997-05-01	

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

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 Smith/	Date (YYYY-MM-DD)	2009-10-02
Name	John C. Smith	Registration Number	33284

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.

08/847750

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/14/2006

TO SPE OF : ART UNIT 3600 (3643)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,024,815

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 – 2900 South Tower ste.9A43A
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.

***Ok to enter changes in the claims as req. in COCIN [redacted] in Madras?**

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

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:

PETER M. POON
SUPERVISORY PATENT EXAMINER

Peter M. Poon
SPE

3643
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 5893608
Issue Date: April 13,1999
Application No. 08847784
Filed: April 28,1997
Attorney Docket No. CRA1-A80

:
: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.

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)
5893608	1999-04-13	08847784	1997-04-28	CRA1-A80

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	/William D. Cravenor/	Date (YYYY-MM-DD)	2007-08-13
Name	William D. Cravenor		

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.

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KING & SPALDING LLP
1180 PEACHTREE STREET
ATLANTA, GA 30309-3521

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of
Isy Goldwasser et al.
Application No. 08/847,967
Filed: April 22, 1997
Attorney Docket No. 10416-105013

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 09, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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 October 12, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 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 to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 1639 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

cc: RONALD A. KRASNOW
SYMYX TECHNOLOGIES, INC.
415 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

UNITED STATES 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. 5842583
Issue Date: December 1,1998
Application No. 08848309
Filed: April 30,1997
Attorney Docket No. ML-0389

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

This is a decision on the electronic petition, filed March 29,2007 ,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 29,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,842,583	1998-12-01	08/848,309	1997-04-30	08505-00002-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	/Patricia Smink Rogowski/	Date (YYYY-MM-DD)	2007-03-29
Name	Patricia Smink Rogowski	Registration Number	33791

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.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,584,520	2003-06-24	08/848,989	1997-05-02	CDR001.229594

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

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

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

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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

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○ 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	/whd/	Date (YYYY-MM-DD)	2008-01-10
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.**

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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. 6584520
Issue Date: June 24,2003
Application No. 08848989
Filed: May 2,1997
Attorney Docket No. CDR001-229594

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

This is a decision on the electronic petition, filed January 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 10,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5834784
Issue Date: November 10,1998
Application No. 08850143
Filed: May 2,1997
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 3,2008 ,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 July 3,2008 . 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

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,834,784	1998-11-10	08/850,143	1997-05-02	98103.00026

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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○ 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	/Basam E. Nabulsi/	Date (YYYY-MM-DD)	2008-07-03
Name	Basam E. Nabulsi	Registration Number	31645

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. 5879276
Issue Date: March 9,1999
Application No. 08850905
Filed: May 2,1997
Attorney Docket No. 8599-007

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 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 June 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.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,879,276	1999-03-09	08/850,905	1997-05-02	51197/0001

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
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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
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven M. Jensen/	Date (YYYY-MM-DD)	2008-06-27
Name	Steven M. Jensen	Registration Number	42693

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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.

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)
5836949	1998-11-17	08850935	1997-05-05	31207.15

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jamie m. rose/	Date (YYYY-MM-DD)	2007-04-25
Name	Jamie M. Rose	Registration Number	58769

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. 5836949
Issue Date: November 17,1998
Application No. 08850935
Filed: May 5,1997
Attorney Docket No. UTHSC-IMROD1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 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 April 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

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OFFICE OF PETITIONS

In re Application of		
Lydecker, et al.	:	
Application No. 08/850,996	:	DECISION ON
Filed: May 5, 1997	:	PETITION
Attorney Docket No. 3464/3	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 30, 2007.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file a reply to the Notice to Corrected Application Papers mailed June 27, 2007. This Notice set a non-extendable period for reply of thirty (30) days for applicant to submit a declaration bearing the signature of inventor Thagard. No declaration having been received, the application became abandoned on July 27, 2007. The Office mailed a Notice of Abandonment on August 15, 2007.

Petitioner states that he timely filed a declaration. In support thereof, petitioner has included a copy of a USPTO date stamped postcard receipt, identifying this application, itemizing a declaration, and bearing a USPTO date stamp dated July 12, 2007.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Accordingly, it is concluded that petitioner has established that a declaration was filed in this application on July 12, 2007. However, petitioner has not supplied the Office with a copy of the declaration. Accordingly, petitioner is requested to supply such on renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

In re Application of
Lydecker, et al. :
Application No. 08/850,996 : DECISION ON
Filed: May 5, 1997 : PETITION
Attorney Docket No. 3464/3 :

This is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 9, 2007.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Notice to Corrected Application Papers mailed June 27, 2007. This Notice set a non-extendable period for reply of thirty (30) days for applicant to submit a declaration bearing the signature of inventor Thagard. No declaration having been received, the application became abandoned on July 27, 2007. The Office mailed a Notice of Abandonment on August 15, 2007. Applicants filed a petition to withdraw the holding of abandonment on August 30, 2007, arguing that they timely filed a declaration. In support thereof, applicants included a proper USPTO date stamped, itemized receipt, establishing that they filed a declaration on July 12, 2007. However, the petition was dismissed in a decision mailed on September 28, 2007. The decision pointed out that

applicants did not supply the Office with a copy of the declaration filed on July 12, 2007.

With the instant petition, applicants have submitted a copy of the declaration, bearing a signature of inventor Thagard.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

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SPECIAL PROGRAMS OFFICE
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BRADFORD J. DUFT
LYON & LYON
633 WEST FIFTH STREET
SUITE 4700
LOS ANGELES, CA 90071

In re Application of Young et al. Application No. 08/851,965 Filed: 6 May, 1997 Attorney Docket No. 224/042	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed on 13 May, 1999, and supplemented by facsimile on 17 May, 1999, in which petitioner states that the application was erroneously held abandoned prior to the expiration of the maximum obtainable time period for reply to the examiner's communication mailed on 17 November, 1998. Therefore, the petition is first treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment for the above-identified application, or in the alternative under 37 CFR 1.137(b)

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The application was held abandoned on 10 September, 1998, for failure to file a timely response to the non-final Office action mailed on 9 June, 1998. The Office action set a three (3) month shortened statutory period for reply. A two (2) month extension of the time for reply was obtained on 8 September, 1998.

Petitioner filed an amendment with the two (2) month time extension on 8 September, 1998. The Examiner informed petitioner by Office communication mailed on 17 November, 1998, that the amendment appeared to be a *bona fide* reply, but was non-responsive, and that petitioner had one (1) month to supply the correction or omission to avoid abandonment. The Office communication also stated, however, that extensions of time under 37 CFR 1.136(a) were available.

Notice of Abandonment was mailed on 4 March, 1999. On 17 May, 1999, petitioner submitted (a) an amendment, (b) a request and payment for a three (3) month time extension, (c) a petition to withdraw the holding of abandonment, and, in the alternative to revive under 37 CFR 1.137(b), and (d) a terminal disclaimer.

The three-month extension of time requested and paid by petitioner will not save this application from abandonment. The Petition For Extension Of Time, filed on 17 May, 1999, however, authorizes the Office to charge petitioner's deposit account for the appropriate extension fee, and will be construed as authorizing the Office to charge petitioner's deposit account the fee necessary to avoid abandonment. As the instant reply is timely filed with a five-month extension of time, petitioner's deposit account, No. 12-2475, will be charged the additional fee of $490.00 required by law for a five (5)-month extension of time by a small entity.

As the petition under 37 CFR 1.137(b) is dismissed as moot, the petition fee of $605.00 will be refunded to petitioner's deposit account. Furthermore, the Terminal Disclaimer filed on 17 May, 1999, is not required. The terminal disclaimer fee of $55.00 will be refunded to petitioner's deposit account. The Terminal Disclaimer will be retained in the application file, but will not be entered.

The holding of abandonment is hereby withdrawn. The application file will be forwarded to Technology Center 1600 for consideration of the reply filed on 17 May, 1999.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

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

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 33

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OFFICE OF PETITIONS

ARNOLD & PORTER
Attn: IP Docketing Department. Room 1126B
555 Twelfth Street, NW
Washington DC 20004-1206

In re Application of
Young, et al.
Application No. 08/851,965
Filed: May 6, 1997
Attorney Docket No. 030639.0053.CPA1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2002, in the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office Action mailed December 12, 2001, which set a shortened statutory period for reply of three (3) months from its mailing date. Extension of time where available pursuant to 37 CFR 1.136(a). A proper reply was not received within the allowable period. Accordingly, the application became abandoned on March 13, 2002. A Notice of Abandonment was sent on August 12, 2002.

The petition fee of $1300.00 will be charged to deposit account 01-0535.

The "Revocation of Prior power of Attorney, Appointment of New Attorneys of record, and Change of Correspondence Address" filed February 27, 2003, is noted and made of record.

The application file is being forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ARNOLD & PORTER LLP
555 TWELFTH ST., N.W.
WASHINGTON DC 20004

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Andrew A. Young et al :
Application No. 08/851,965 :
Filed: May 6, 1997 :
Attorney Docket No. 030639.0053.CPA1 :

This is a decision on the petition, filed April 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 7, 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) 272-3208.

The examiner of Technology Center AU 1639 will 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).

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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ARNOLD & PORTER LLP (18528)
555 TWELFTH ST, NW
WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Application of
Young, et al.
Application No. 08/851,965
Filed: May 6, 1997 (CPA filed March 12, 2001)
Atty. Dkt. No: 030639.0053.CPA1

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(b)" filed August 4, 2005.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from zero days, as indicated on the Determination of Patent Term Adjustment mailed September 15, 2005, to an adjustment of 259 days.

A review of the application history reveals that in accordance with 37 CFR 1.702(a)(2), an adjustment of 376 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began March 1, 2003, the day after the date that is four months after the date a response to the final Office action was received, and ended March 10, 2004, the date of mailing of first Notice of Allowance. There were no further delays attributable to the Office.

The adjustment of 376 days is properly reduced 67 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental paper (Information Disclosure Statement) filed May 18, 2001. The reduction began March 13, 2001, the day after the date that a response to the non-final Office action was filed, and ended May 18, 2001, the date the IDS was filed.

The adjustment of 376 days is further reduced 6 days in accordance with 37 CFR 1.704(b) in connection with the response to the non-final Office action submitted September 25, 2001. The reduction began September 20, 2001, the day after the date that is three months after the date that the non-final Office action was mailed, and ended September 25, 2001, the date a response to the non-final Office action was filed.

The adjustment of 376 days is further properly reduced 354 days in accordance with 37 CFR 1.704(c)(3) for applicants' failure to engage in reasonable efforts to conclude prosecution. The reduction began March 13, 2001, the date of abandonment of the application for failure to timely response to the final Office action mailed December 12, 2001, and ended March 1, 2003, the date that is four months after the date that a grantable decision pursuant to 37 CFR 1.137(b) was filed.

The adjustment of 376 days is further properly reduced 311 days in accordance with 37 CFR 1.704(c)(8) in connection with the petition to withdrawn from issue and request for continued examination (RCE) filed April 14, 2005. The reduction began June 8, 2004, the day after the date of receipt of the initial reply (issue fee payment) and ended April 14, 2005, the date of submission of the petition and RCE.

Accordingly, at the time of allowance, the application is entitled to an adjustment of zero days, as indicated in the Notice of Allowance mailed May 4, 2005.

The Office acknowledges receipt of the required $200.00 application fee.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 37

The Scripps Research Institute
10550 North Torrey Pines Road
Mail Drop TPC 8
La Jolla, CA 92037

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OFFICE OF PETITIONS

In re Application of
Ichiro Maruyama, et al.
Application No. 08/852,020
Filed: May 6, 1997
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 2002, 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). A four(4) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. As an appeal brief (and appeal brief fee) was not filed within six (6) months of the Notice of Appeal filed February 1, 2002, 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 August 2, 2002. See MPEP 1215.04.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Petitioner submitted a Request for Continued Examination (RCE), without the proper submission on July 12, 2002. Accordingly, the Request for Continued Examination (RCE) was improper under 37 CFR 1.114. Since a proper submission has been filed with the instant petition, the application will be revived solely for purposes of continuity with the Request for Continuation Examination (RCE) filed on July 12, 2002.

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 1600, Art Unit 1636, for processing the Request for Continued Examination under 37 CFR 1.114.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
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
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In re Patent No. 5869156
Issue Date: February 9,1999
Application No. 08852045
Filed: May 6,1997
Attorney Docket No. 758.474USF1

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed January 25,2008 ,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 25,2008 . 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.

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)
5,869,156	1999-02-09	08/852,045	1997-05-06	758.0474USF1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Daniel M. Pauly/	Date (YYYY-MM-DD)	2008-01-25
Name	Daniel M. Pauly	Registration Number	40123

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
DIW Apr-05

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

COPY MAILED
APR 19 2005
OFFICE OF PETITIONS

In re Application of	:	
Ruddy et al.	:	DECISION ON PETITION
Application No. 08/852,495	:	
Filed: 7 May, 1997	:	
Atty Docket No. 8907-057-999	:	

This is a decision on the petition filed on 17 December, 2004, which requests under 37 C.F.R. §1.182 that a previously filed terminal disclaimer be withdrawn. The petition fee has been received.

The petition is granted.

Petitioner asserts that the terminal disclaimer filed 25 January, 2001, is no longer required. As the examiner has concurred, the requested relief can be favorably considered.

This application is being referred to Technology Center Art Unit 1634 for correction of PALM and file records consistent with this decision.

Telephone inquiries relative 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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ECKERT, SEAMANS, CHERIN & MELLOTT

Paper No. 9

Grant E. Coffield
Eckert Seamans Cherin & Mellott, LLC
U.S. Steel Tower
600 Grant Street, 44th Floor
Pittsburgh PA 15219

COPY MAILED
MAR 24 2006
OFFICE OF PETITIONS

In re Patent No. 5,997,288
Issue Date: December 7, 1999
Application No. 08/853,032
Filed: April 18, 1997
Attorney Docket No. 010116-00005

DECISION ON PETITION

This is a decision is in response to the petition under 37 CFR 1.378(b), filed January 31, 2006, and resubmitted on February 3, 2006, to accept the delayed payment of the 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 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 patent issued on December 7, 1999. The first maintenance fee could have been paid during the period from Monday, December 9, 2002 through Monday, June 9, 2003 or with a surcharge during the period from Tuesday, June 10, 2003 through Monday, December 8, 2003. Accordingly, this patent expired on December 8, 2003, for failure to timely remit the maintenance fee.

Petition for Reconsideration
Due: 5-24-06
sm

DISCUSSION

Patentee, Robert J. Adams, died on October 29, 2002, approximately 6 weeks before the first day when the 3.5 year maintenance fee could have been paid without a surcharge. Petitioners, the children and heirs of Robert J. Adams (sometimes referred to as "the children"), asserted that they were first notified that the above-identified patent expired on December 29, 2005.[1] Petitioners averred that reasonable steps were taken at all times to ensure proper maintenance of the patent. Petitioners stated that Adams principally ran his business concerning the coal treatment invention of his patents from his home, which was the correspondence address for all patent-related matters. Petitioners explained that Adams, a long term diabetic and in his late 70's, suffered from a marked decline in his mental and physical health in early 2000. From 2000 until his death on October 29, 2002, Adams underwent several surgeries, including back surgery and a quadruple bypass heart surgery. Petitioners indicated that during this time, Adams was hospitalized on several occasions for extended periods of time, and spent extended durations in rehabilitation and assisted living facilities. In the fall of 2002, Adams lived in a nursing home due to his declining health.

Petitioners asserted that they knew very little about Adams' coal treatment endeavors during his lifetime, which he primarily undertook towards the end of his life. Additionally, petitioners maintained that they had no knowledge of their father's patents. In accordance with his Will, Adams' children inherited his interest in the three patents; however, the estate documents specifically identified only the '139 patent. Therefore, petitioners contended that they were not aware of the subject patent or the '265 patent at the time his estate was closed.

Adam's daughter, the Executrix of the estate, hired legal counsel to assist in the handling of the estate and in forming a new company, Confluence Coal Combustion LLC, as well as any activities stemming from Adams' business. Petitioners stated that in December of 2004, in an attempt to revive their father's business, they contacted Alfred Mann, an engineer who had worked with Adams on his coal treatment technology, to inquire into the status of Adams' patents. Petitioners stated: "Ultimately, after performing some crude research, including a [USPTO] website search, Mr. Mann who had no formal knowledge of the patent practice and/or procedure informed the children that he believed the Patents were in force." *Petition of January 3, 2006, p. 13, ¶ 10.* Mann confirmed that he relied on the information provided on the USPTO website, which showed no indication that the subject patent was expired, but rather stated the status as a "Patented Case."

In the summer of 2005, petitioners collected and reviewed all of Adams' documents, but found nothing concerning the maintenance fees. On December 29, 2005, during initial negotiations with a licensee, the children were first informed that all three of the patents expired for failure to pay the maintenance fees. Thereafter, petitioners contacted the law firm of Eckert Seamans Cherin & Mellon. After being interviewed by counsel, the children asserted that they had not seen any patent

[1] U.S. Patent Nos. 5,468,265 (hereinafter "the '265 patent) and 5,254,139 (hereinafter "the '139 patent), which issued to patentee, also expired for failure to pay the maintenance fees. The record indicates that petitioner filed petitions in the USPTO to reinstate the aforementioned patents.

maintenance fee reminders or related documents and did not know that there existed an obligation to pay such maintenance fees.

ANALYSIS

37 CFR 1.378(b) provides that a patent may be reinstated at any time following expiration of the patent for failure to time pay a maintenance fee. 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 37 CFR 1.20(e) - (g);

(2) the surcharge set forth in 37 CFR 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The petition lacks item (3).

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.

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 v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). 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).

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). Moreover, 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).

The general standard applied by the Office requires a petitioner to establish that the patentee or his successors in interest treated the patent the same as a reasonable and prudent person would treat his most important business. Smith v. Mossinghoff, 671 F.2d 533, 538 213 USPQ 977, 982 (D.C. Cir. 1982). In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See California Medical Prods. v. Tecnol Medical Prods., 921 F. Supp. 1219, 1259 (D. Del. 1995) Moreover, a petitioner is bound by any error that may have been committed by the obligated party. Id.

Initially, the Office notes that petitioners did not indicate in the petition the date and the manner in which they first became aware of the existence of the subject patent. Instead, petitioners stated only the date that they first became aware that the patent expired (*i.e.*, December 9, 2005). Petitioners must provide this information to the USPTO with any renewed petition.

The Office further notes that it was incumbent on Adams, or his children, to have docketed this patent for payment of the maintenance fee in a reliable system as would have been employed by a prudent and careful person with respect to his most important business, or to have engaged another for that purpose. See California Medical Prods. v. Tecnol Medical Prods., 921 F. Supp. 1219, 1259 (D. Del. 1995) . In the present petition, petitioners have not shown with supporting documentation that either Adams or his children had taken any steps to enter the subject patent into a tracking system.

Moreover, petitioners did not provide an adequate showing of the steps taken by any person to ensure the timely payment of the maintenance fees. While the USPTO is aware of the difficulties involved in this instance, petitioners must supply a thorough explanation of the tracking system in use and 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, file wrappers and such other records as may exist which would substantiate an error in tracking the maintenance fee, and include an indication as to why the system failed to provide adequate notice for the need to pay the maintenance fee for this patent. Assuming, *arguendo*, that Adams had entered the subject patent in a tracking system; petitioners are bound by the business decisions, actions, or inactions of Adams, as unfortunate as that may be. See Winkler v. Ladd, 221 F. Supp 550, 552, 138 USPQ 666, 667 (D.D.C. 1963) (delay caused by a failure to act by or on behalf of the party in interest at the time the action needs to be taken is binding on the successor in title.)

Petitioners explained that Adams, a long term diabetic and in his late 70's, suffered from a marked decline in his mental and physical health in early 2000. Petitioners stated that Adams underwent several surgeries, including back surgery and a quadruple bypass heart surgery, from 2000 until his death on October 29, 2002, a period of approximately two years. Petitioners indicated Adams was hospitalized on several occasions for extended periods of time, spent extended durations in rehabilitation and assisted living facilities, and moved into a nursing home in late 2002. Unfortunately, petitioners failed to show what reasonable steps they took during that two-year period to educate themselves about Adams' business dealings. A reasonably prudent person, who was aware that their father's health was declining, would have taken responsibility for the maintenance of his private and business affairs. Specifically, petitioners waited until December of 2004, to inquire into the status of the patents by contacting Mann, in an effort to revive their father's business. Moreover, petitioners collected and reviewed all of Adam's documents in the summer of 2005, almost three years after his death.

Furthermore, petitioners did not act as reasonable and prudent persons in relation to their most important business when they relied on the information provided by Mann regarding the status of Adams' patents. In the petitions, petitioners stated that Mann performed "some crude research" and admitted that he had no formal knowledge of the patent practice or procedures. Yet, it appears that petitioners relied solely on the information and conclusions of Mann and did not make any further inquiries into the status of the patents. There is no indication that petitioners contacted USPTO directly or obtained the services of a registered patent practitioner. The record indicates that petitioners made little effort to obtain information regarding the legal requirements applicable to patents, such as the need for paying maintenance fees within the period they controlled the patent. Ironically, the licensee was able to ascertain that the patent expired and informed petitioners of the expiration.

Even if the USPTO website implied that the patent had not expired, 35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force. Delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure does not constitute "unavoidable" delay. See Hanes v. Quigg, 673 F. Supp. 314,

317, 5 USPQ2d 1130,1132 (N.D. Ind. 1987); Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981). Pursuant to the maintenance fee statutes, the USPTO has no duty to notify patentees when their maintenance fees are due. Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990). The USPTO will attempt to provide notices as reminders that maintenance fees are due, but the notices, **errors 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. Id. (emphasis added). Maintenance fee notices provided by the USPTO are merely courtesy in nature and intended to aid patentees. These notices, errors in these notices or 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 USPTO.

CONCLUSION

As petitioners have not provided an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable," the petition is **dismissed.**

Petitioners should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The $400.00 petition fee for seeking further 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 petitioners' request.

The address indicated on the petition differs from the correspondence address of record. If the practitioner or patent owners desire to receive future correspondence regarding this patent at the address indicated on the petition, a change of correspondence address should be submitted and signed by the proper party. A change of address must be signed by the patent applicant, the assignee of the entire interest, or an attorney or agent of record in accordance with 37 CFR 1.33. As a one-time courtesy, the Office will mail a copy of this decision to the address on the petition; however, future correspondence will continue to be sent to the address of record until the Office is notified otherwise.

The USPTO finance records reveal that the Office charged the credit card twice for the maintenance fee and surcharge. The Office apologizes for the mistake and will credit the duplicate amounts, totaling $1,150.00, to the credit card.

The patent file is being forward to Files Repository.

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 Services Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
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. 16

PETER J. GORDON
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211

Mailed
FEB 4 2000
Director's Office
Group 2700

In re Application of:	)	
FOTTA et al.	)	
Application No. 08/853,563	)	
Filed: July 31, 1998	)	DECISION ON REQUEST TO
For: SYSTEM AND PROCESS FOR	)	VACATE REQUEST TO
AUTOMATIC STORAGE	)	WITHDRAW
ENFORCEMENT AND OVERIDE OF D	)	
CONSUMER DO-NOT-CALL REQUEST	)	

This is a decision on request for withdrawal as attorney(s) under 37 C.F.R. 1.36, filed on March 2, 1999 and the letter filed May 4, 1999 requesting the withdraw be vacated.

Requestor, Lesley A Hamlen has signed on behalf of herself and her current and former co-directors listed in the request in accordance with MPEP 402.06.

The requestor on May 4, 1999 submitted a letter requesting that the request for withdrawal of attorney under 37 C.F.R. 1.36 be vacated and the Petition fee of $130.00 be returned. As of May 4, 1999 no decision by the Office has been rendered with regards to the Petition under 37 C.F.R. 1.36.

After a careful review of the fee recordation it has been determined that the requestor's Petition fee of 130.00 has been refunded to their deposit account.

Those of record as of March 2, 1999, remain of record.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications and Information Processing

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JOE A PRINGLE
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APPLEGATE PARK
LUBBOCK TX 79404

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DEC 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Joe Allen Pringle	:	
Application No. 08/853,604	:	DECISION ON PETITION
Filed: May 9, 1997	:	
Attorney Docket No. P04480US0/RFH	:	

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(b), filed November 2, 2005.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee and file corrected drawings in response to the Notice of Allowance and Notice of Allowability mailed June 16, 1999. These Notices set a statutory period for reply of three months. No extensions of time under 37 CFR 1.136(a) were available. No issue fee or drawings having been received, the above-identified application became abandoned on September 17, 1999. A Notice of Abandonment was mailed on October 29, 1999.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of the issue fee and drawings, and made the proper statement of unintentional delay.

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).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Ross F. Hunt
Stites & Harbison PLLC
1199 North Fairfax St
Suite 900
Alexandria, VA 22314

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)
6017576	2000-01-25	08854228	1997-05-09	P-4894.01-C1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DANIEL D. CHAPMAN/	Date (YYYY-MM-DD)	2008-03-31
Name	Daniel D. Chapman	Registration Number	32726

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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. 6017576
Issue Date: January 25,2000
Application No. 08854228
Filed: May 9,1997
Attorney Docket No. P-4894.01-CI

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 31,2008 ,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 31,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5797923
Issue Date: August 25,1998
Application No. 08854564
Filed: May 12,1997
Attorney Docket No. M27.1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 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 April 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.

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)
5,797,923	1998-08-25	08854564	1997-05-12	CASEP0843US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher B. Jacobs 37853/	Date (YYYY-MM-DD)	2008-04-21
Name	Christopher B. Jacobs	Registration Number	37853

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5974676
Issue Date: November 2,1999
Application No. 08854980
Filed: May 13,1997
Attorney Docket No. L3440/165281

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 24,2008 ,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 April 24,2008 . 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.

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)
5974676	1999-11-02	08854980	1997-05-13	L3440/165281

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

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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	/Camilla C. Williams/	Date (YYYY-MM-DD)	2008-04-24
Name	Camilla C. Williams	Registration Number	43992

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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TERRANCE A. MEADOR
INCAPLAW
1050 ROSECRANS STREET, SUITE K
SAN DIEGO, CA 92106

COPY MAILED

DEC 15 2005

OFFICE OF PETITIONS

In re Application of	:	
SCOTT D. AUGUSTINE ET AL	:	
Application No. 08/855,061	:	DECISION GRANTING PETITION
Filed: May 13, 1997	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. AUGA01000012	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed February 4, 2005, which set a one month time limit for reply. No reply having been received, the date of abandonment of this application is March 5, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of February 4, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being forwarded to Technology Center AU 3711 for appropriate action on the amendment filed September 19, 2005.

Frances Hicks
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. 5950654
Issue Date: September 14,1999
Application No. 08855257
Filed: May 13,1997
Attorney Docket No. 5044-06\EJG

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 17,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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)
5950654	1999-09-14	08855257	1997-05-13	

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)
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SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Christopher John Paylor/	Date (YYYY-MM-DD)	2008-12-17
Name	Christopher John Paylor		

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 15

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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SEP 16 2003

OFFICE OF PETITIONS

In re Application of
Hugh G. Chilton et al.
Application No. 08/855,387
Patent No. 5,902,480
Filed: May 13, 1997
Issue Date: May 11, 1999
Attorney Docket No. 3747-021
Title: DEPTH MEDIA IN-TANK FUEL FILTER WITH EXTRUDED MESH SHELL

DECISION ON PETITION

This is a decision on the petitions under 37 CFR §§1.378(b) and 1.378(c), filed August 14, 2003 and September 11, 2003, to accept the delayed payment of a maintenance fee for the above-identified patent under the unavoidable and unintentional standards, respectively.

Regarding the petition under 37 C.F.R. §1.378(b), the petitioner has requested that the petition be withdrawn. Therefore, the petition is **DISMISSED AS MOOT**.

Regarding the petition under 37 C.F.R. §1.378(c), the petition is **GRANTED**.

The patent issued on May 11, 1999. The grace period for paying the 3½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on May 11, 2003, with no payment received. Accordingly, the patent expired on May 11, 2003.

This petition was timely filed within twenty-four months after the expiration of the six-month grace period. As required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

After this decision is mailed, the application file will be forwarded to Files Repository.

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

#38

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

JUL 1 2003

Paper number 38 PJR

In re Application of Masaaki Yamanaka et al:

Serial No. 08/855,905 :
Filed: May 14, 1997 :
For: SYNTHETIC PAPER MADE OF STRETCHED POLYPROPYLENE FILM

DECISION ON PETITION

This is a decision on the petition pursuant to 37 C.F.R. 1.181, filed May 5, 2003, requesting the withdrawal of the finality of the Office action dated January 27, 2003.
The petitioner provides the following arguments and evidence: 1.) The office action mailed to petitioner on January 28, 2002 was incomplete; 2.) The final office action dated January 27, 2003 was the first time that appellant was presented with a rejection of claims under 35 U.S.C 112, first paragraph; 3.) A statement that a thorough search of the office file of the petitioner had been made and no copy of the missing page from the office action of January 28, 2002 was found; and 4.) A copy of the office action dated January 28, 2002 as received by petitioner-from which page 2 is missing.

FACTS

The office action mailed on January 28, 2002 as found in the found in the official file at the patent office contains a page 2 on which is set forth a rejection under 35 U.S.C. 112, first paragraph. Petitioner responded to the office action of January 28, 2002 and did not respond to the rejection under 35 U.S.C. 112, first paragraph. Upon receipt of this response the examiner issued a final office action dated January 27, 2003. An interview between the Supervisory Patent Examiner of the unit in question and the petitioner resulted in a request by the supervisor for petitioner to respond to the outstanding rejection. Petitioner disagreed and has filed this petition for relief requesting a re-mailing of the office action and a restart of the statutory time period to respond.

DECISION

Upon receipt of petitioner's response to the January 28, 2002, the examiner did not hold the paper to be non-responsive but rather issued a final office action. The evidence presented by petitioner provides a convincing showing that the office action as received by petitioner was incomplete and as such the first opportunity petitioner had to respond to the rejection in question was in the final office action. Since the Office action of January 28, 2002, as received by petitioner, did not include a rejection under 35 U.S.C 112, first paragraph, no clear issue has been developed in the record and the finality of the January 27, 2003 Office Action was inappropriate.

The petition is **GRANTED.**

The application will be returned to the examiner for mailing of a new non-final office action with a restarted statutory time period.

JMStone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Rocco S. Barrese
Dilworth and Barrese
333 Earle Ovington Boulevard
Uniondale, New York 11553

UNITED STATES 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. 5918422
Issue Date: July 6,1999
Application No. 08856110
Filed: May 14,1997
Attorney Docket No. BUC-2009

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 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 May 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.

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)
5918422	1999-07-06	08856110	1997-05-14	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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 E. Rook/	Date (YYYY-MM-DD)	2008-05-30
Name	David E. Rook	Registration Number	40790

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.

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 10-24-01 Paper No.: _____

TO : Supervisor, Art Unit 2876

SUBJECT : Certificate of Correction Request in Patent No.: 5984190

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? Reconsideration

☐ 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) Please do not send to warehouse
ABOVE AND RETURN FILE TO: PALM LOCATION 7580, CERT. OF CORREC. BR. , PK 3 –915/922 DATE: Thanks

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 These References were cited by the examiner. The prior art (References) should be printed on the face of the file.

Michael J
Supervisor

2876
Art Unit

PTOL-306 (REV. 10/87) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Best Available Copy

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 5-7-01

TO : Supervisor, Art Unit 2876

SUBJECT: Certificate of Correction Request in Patent No. 5984190

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 a
- [ ] 2. Would the change(s) requested under 37 CFR 1.323 Materially affect the scope or meaning of the claims al by the examiner in the patent?
- [ ] 3. Applicant disagrees with change(s) initialed and dated by Examiner in lieu of an Examiner's Amendment. the change request be granted?
- [x] 4. With respect to the change(s) requested, correcting Office errors, should the patent read as shown in the ce of correction? Should References Cited be entered?
- [ ] 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

Eva James E. James

Legal Instrument Examiner

Please do not send to Warehouse Thanks

TO: CERTIFICATE OF CORRECTION BRANCH | DATE:

The decision regarding the change(s) requested in the certificate of correction is shown below.

[ ] 1.YES	[ ] NO	[ ] Comments below
[ ] 2.YES	[ ] NO	[ ] Comments below
[ ] 3.YES	[ ] NO	[ ] Comments below
[ ] 4.YES	[x] NO	[ ] Comments below
[ ] 5.YES	[ ] NO	[ ] Comments below

[ ] Comments No Information Disclosure Statement in file with the references sought to be inserted via Certificate of Correction

Disapproved

Supervisor

Art Unit

PTOL-306 (REV. 10/87)

U.S. DEPARTMENT OF COMMERCE Patent and Tra

Neil Chandler
5-8-01

UNITED STATES 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. 6017606
Issue Date: January 25,2000
Application No. 08857196
Filed: May 15,1997
Attorney Docket No. 28753/3

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 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 March 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.

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)
6017606	2000-01-25	08857196	1997-05-15	28753/3

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

A Joint Patentee, all of whom are signing this petition			
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			
Patentee 1		Remove	
Signature	/Linda Sage/	Date (YYYY-MM-DD)	2008-03-11
Name	Linda Sage		
Patentee 2		Remove	
Signature	/Donald L. Sage/	Date (YYYY-MM-DD)	2008-03-11
Name	Donald L. Sage		
Additional Patentees may be generated within this form by selecting the Add Button		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.

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)
6085402	2000-07-11	08857238	1997-05-16	271.3

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	/Frank Liebenow/	Date (YYYY-MM-DD)	2010-06-21
Name	Frank Liebenow	Registration Number	48688

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).

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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. 6085402
Issue Date: July 11,2000
Application No. 08857238
Filed: May 16,1997
Attorney Docket No. 271.3

:

: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 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 21,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 35

QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO, CA 92121-1714

COPY MAILED

MAR 2 4 2004

OFFICE OF PETITIONS

In re Application of
Padovani, Roberto
Application No. 08/858,245
Filed: May 19, 1997
Attorney Docket No. QCPA418B

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 17, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed July 11, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 12, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 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 fee submitted with the petition on February 17, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6267737
Issue Date: July 31,2001
Application No. 08858530
Filed: May 15,1997
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed November 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 November 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,267,737	2001-07-31	08/858,530	1997-05-15	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Algis Meilus/	Date (YYYY-MM-DD)	2009-11-04
Name	Algis A. Meilus		

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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)
5953368	1999-09-14	08/859,378	1997-05-20	164877USMF

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☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

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NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/C. Irvin McClelland/	Date (YYYY-MM-DD)	2007-11-07
Name	C. Irvin McClelland	Registration Number	21124

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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5953368
Issue Date: September 14,1999
Application No. 08859378
Filed: May 20,1997
Attorney Docket No. 6926-007-20-

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 7,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 7,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,864,682	1999-01-26	08859860	1997-05-21	036560.6830

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☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

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SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul Katz/	Date (YYYY-MM-DD)	2007-03-28
Name	Paul N. Katz	Registration Number	35917

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. 5864682
Issue Date: January 26,1999
Application No. 08859860
Filed: May 21,1997
Attorney Docket No. 3018016A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 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 March 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.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6025017	2000-02-15	08/859,903	1997-05-21	7253

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	/AdamABennett/	Date (YYYY-MM-DD)	2008-12-15
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

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)).

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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. 6025017
Issue Date: February 15,2000
Application No. 08859903
Filed: May 21,1997
Attorney Docket No. 252016-9014

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 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 December 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

Technology Center 1700

Mailed: 5/16/05

MEB
Paper Number:

In re application of
Tolt et al.
Serial No. 08/859,960
Filed: May 21, 1997
For: A Process For Growing A Carbon Film

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW ABANDONMENT, filed May 24, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of May 7, 2004, for failure to timely reply to the Notice Regarding Drawings of January 29, 2004 be withdrawn. The petitioner asserts that the formal drawings filed on January 5, 2004 were not reviewed by the draftsperson, who sent out the Notice Regarding Drawings of January 29, 2004, and that the draftsperson subsequently reviewed and approved, on February 18, 2004, the formal drawings of January 5, 2004. A copy of the PTO-948 form, completed on February 18, 2004, showing the review and approval of the formal drawings, filed January 5, 2004, is provided as evidence.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The petitioner's evidence of the PTO-948 form, completed on February 18, 2004, showing the review and approval of the formal drawings, filed January 5, 2004, is sufficient. The Notice of Abandonment is hereby withdrawn and the application will be forwarded to Publication Branch for processing and issue.

The Petition is **Granted**.

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KELLY K. KORDZIK
WINSTEAD SECHREST & MINICK P.C.
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DALLAS, TX, 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, N.W.
Suite 300
Washington, DC 20001-5303

COPY MAILED
JUL 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Wallach et al.	:	DECISION ON APPLICATION
Application No. 08/860,082	:	FOR
Filed: August 19, 1997	:	PATENT TERM ADJUSTMENT
Atty Docket No. WALLACH=16	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed September 20, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from four hundred seventy-two (472) days to eight hundred twenty-four (824) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred thirty-three (533) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 21, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 472 days. On September 20, 2005, applicants timely submitted an application for patent term adjustment (with required fee). Applicants dispute the entry of periods of adjustment for interference delay of four hundred twenty (420) days for the period from September 24, 2001 to November 18, 2002 and of one hundred eighty-seven (187) days for the period from May 6, 2003 to November 9, 2003. Applicants contend that the

delay extended from October 1, 2001 to May 17, 2004, and thus, the period of adjustment is nine hundred fifty-nine (959) days.

Applicants state that the present application is subject to a terminal disclaimer.

37 CFR 1.702(c) provides that:

> Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to interference proceedings under 35 U.S.C. 135(a).

Further, 37 CFR 1.703(c) provides that:

> The period of adjustment under § 1.702(c) is the sum of the following periods, to the extent that the periods are not overlapping:
>
> > (1) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and
> >
> > (2) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

A review of the record reveals that letters of suspension were mailed on October 1, 2001 (not September 24, 2001), May 6, 2003 and March 10, 2004 due to an interference in another application. The record supports a conclusion that actions with respect to these suspensions were taken on November 18, 2002, November 9, 2003, and May 17, 2004 respectively.

With respect to the first suspension, no action was taken to note the expiration of the suspension until well after the six-month period. Specifically, on November 19, 2002, the Technical support staff closed the a/r record and reset the status for an expired suspension. With respect to the second suspension, the

Technical support staff, on the first Monday (business day) after the end of the six-month period, on November 9, 2003, closed the a/r record and reset the status for an expired suspension. With respect to the third suspension, by Office action mailed May 17, 2004, the examiner advised applicants that ex parte prosecution had resumed. The suspension was thereby terminated.

Applicants are entitled to periods of adjustment for examination delay pursuant to 1.702(c) only for those periods during which issuance of the patent was delayed due to interference proceedings under 35 U.S.C. 135(a). In this instance, pursuant to 1.703(c)(2), such period is limited to the number of days in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension. Contrary to applicants' assertions, the period of suspension did not run from October 1, 2001 to May 17, 2004. Thus, applicants are not entitled to a period of adjustment of 959 days. However, the determination of patent term adjustment received by applicants failed to include a calculation for the third period of suspension ending May 17, 2004. With respect to the suspensions in this case, it is concluded that the periods of adjustment are properly 413 days for the period from October 1, 2001 to November 18, 2002, 187 days for the period from May 6, 2003 to November 9, 2003, and an additional 68 days for the period from March 10, 2004 to May 17, 2004. Thus, the total period of adjustment pursuant to 1.702(c) is 668 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred thirty-three (533) days (413 + 187 + 68 + undisputed 96 days of Office delay - 231 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The Office has, thereby, forwarded the file to the Office of Patent Publication so that a patent can be issued. The patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing

the patent after the issue fee had been paid and all outstanding requirements met.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Day : Friday
Date: 7/21/2006

PALM INTRANET

Time: 10:05:25

PTA Calculations for Application: 08/860082			
Application Filing Date:	08/19/1997	PTO Delay (PTO):	703
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	231
Post-Issue Petitions:	0	Total PTA (days):	533
PTO Delay Adjustment:	61		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
121	07/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		420	
120	07/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	413		
119	07/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	68		
104	06/21/2005	MAIL NOTICE OF ALLOWANCE	96		88
103	06/21/2005	MAIL EXAMINER'S AMENDMENT			
102	06/20/2005	ISSUE REVISION COMPLETED			
101	06/20/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
95	06/20/2005	EXAMINER'S AMENDMENT COMMUNICATION			
94	06/20/2005	NOTICE OF ALLOWABILITY			
93	04/23/2005	PARALEGAL TD ACCEPTED			
92	04/05/2005	TERMINAL DISCLAIMER FILED		139	88
91	04/21/2005	DATE FORWARDED TO EXAMINER			
90	04/05/2005	SUPPLEMENTAL RESPONSE			
89	01/13/2005	DATE FORWARDED TO EXAMINER			
88	11/17/2004	RESPONSE AFTER NON-FINAL ACTION		92	84
87	11/17/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
86	11/17/2004	WORKFLOW INCOMING AMENDMENT IFW			
85	07/29/2004	CORRESPONDENCE ADDRESS CHANGE			
84	05/17/2004	MAIL NON-FINAL REJECTION			
83	05/17/2004	NON-FINAL REJECTION			
82	03/10/2004	MAIL LETTER OF SUSPENSION			
81	03/10/2004	LETTER OF SUSPENSION - EXAMINER INITIATED			
80	11/09/2003	DATE FORWARDED TO EXAMINER			
		TO CLOSE THE A/R RECORD AND RESET THE			

79	11/09/2003	STATUS FOR EXPIRED SUSPENSIONS.	187		78
78	05/06/2003	MAIL SUSPENSION DUE TO INTERFERENCE IN ANOTHER APPLICATION			
77	05/05/2003	LETTER OF SUSPENSION - INTERFERENCE IN ANOTHER CASE			
76	03/17/2003	CASE DOCKETED TO EXAMINER IN GAU			
75	11/18/2002	DATE FORWARDED TO EXAMINER			
74	11/18/2002	TO CLOSE THE A/R RECORD AND RESET THE STATUS FOR EXPIRED SUSPENSIONS.	420		72
73	10/15/2001	CORRESPONDENCE ADDRESS CHANGE			
72	09/24/2001	MAIL SUSPENSION DUE TO INTERFERENCE IN ANOTHER APPLICATION			
71	09/24/2001	LETTER OF SUSPENSION - INTERFERENCE IN ANOTHER CASE			
70	08/22/2001	NEW OR ADDITIONAL DRAWING FILED			
69	07/20/2001	DATE FORWARDED TO EXAMINER			
68	07/20/2001	WITHDRAWAL OF NOTICE OF ALLOWANCE			
67	05/24/2001	MAIL NOTICE OF ALLOWANCE			
66	05/24/2001	MAIL FORMAL DRAWINGS REQUIRED			
65	05/24/2001	FORMAL DRAWINGS REQUIRED			
64	05/24/2001	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
63	05/21/2001	NOTICE OF ALLOWABILITY			
62	11/18/2002	CASE DOCKETED TO EXAMINER IN GAU			
43	03/07/2001	DATE FORWARDED TO EXAMINER			
42	03/01/2001	RESPONSE AFTER NON-FINAL ACTION			
41	12/05/2000	MAIL NON-FINAL REJECTION			
40	12/04/2000	NON-FINAL REJECTION			
39	09/27/2000	DATE FORWARDED TO EXAMINER			
38	08/14/2000	SUPPLEMENTAL RESPONSE			
37	09/27/2000	DATE FORWARDED TO EXAMINER			
36	08/14/2000	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
35	08/14/2000	MAIL EXPRESS ABANDONMENT (DURING EXAMINATION)			
34	08/14/2000	EXPRESS ABANDONMENT (DURING EXAMINATION)			
33	08/14/2000	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	08/14/2000	WORKFLOW - REQUEST FOR CPA - BEGIN			

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,002,072	1999-12-14	08/860,368	1997-11-03	P30704US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph.W.Ricigliano/	Date (YYYY-MM-DD)	2008-03-04
Name	Joseph W. Ricigliano	Registration Number	48511

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. 6002072
Issue Date: December 14,1999
Application No. 08860368
Filed: November 3,1997
Attorney Docket No. SVS3801P0181

:
: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.

UNITED STATES 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. 6046384
Issue Date: April 4,2000
Application No. 08860483
Filed: November 3,1997
Attorney Docket No. SVS3801P0091

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 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 May 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.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,046,384	2000-04-04	08/860,483	1997-11-03	P30737US01/20612.001

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	/Joseph W. Ricigliano/	Date (YYYY-MM-DD)	2008-05-27
Name	Joseph W. Ricigliano	Registration Number	48511

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)).

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Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,005,166	1999-12-21	08/860,519	1997-09-29	P30649US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph.W.Ricigliano/	Date (YYYY-MM-DD)	2008-03-04
Name	Joseph W. Ricigliano	Registration Number	48511

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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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. 6005166
Issue Date: December 21,1999
Application No. 08860519
Filed: September 29,1997
Attorney Docket No. SVS3801P0151

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 17

LACKENBACH SIEGEL MARZULLO
ORONSON & GREENSPAN
ONE CHASE ROAD
PENTHOUSE SUITE
SCARSDALE, NY 10583

COPY MAILED

JUN 2 8 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Tokmulin et al.
Application No. 08/860,763
Filed: September 9, 1998
Attorney Docket No. P-9701-ISK

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2001, to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of April 25, 2000. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 26, 2000. A Notice of Abandonment was subsequently mailed on December 6, 2000.

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 intentional; 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 (1) the required reply. The proposed reply required for consideration of a petition to revive after a final Office Action 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, the filing of a continuing application or a Request for Continued Examination (RCE). See MPEP 711.03(c)(III)(A)(2) and 37 CFR 1.114. Although Petitioner submitted an amendment on January 25, 2001, the examiner has determined the amendment does not place the application in condition for allowance. Accordingly, this application cannot be revived.

Further Correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
WASHINGTON, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 21

MYRON GREENSPAN
LACKENBACH SIEGEL MARZULLO
ORONSON & GREENSPAN
ONE CHASE ROAD
PENTHOUSE SUITE
SCARSDALE, NY 10583

COPY MAILED

SEP 1 0 2001

OFFICE OF PETITIONS

In re Application of
Tokmulin et al.
Application No.08/860,763
Filed: September 9, 1998
Attorney Docket No. P-9701-ISK

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 27, 2001, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of April 25, 2000. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 26, 2000. A Notice of Abandonment was subsequently mailed on December 6, 2000. A petition to revive the application filed on January 25, 2001 was dismissed on June 28, 2001

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

This application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the Continued Prosecution Application (CPA) filed August 27, 2001.

The Office acknowledges receipt of the preliminary amendment submitted with the instant petition.

This application is being forwarded to Technology Center 1700 for processing of the CPA.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Nancy Johnson for
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

#17

CHRISTINA THALHAMMER-REYERO
1701 16TH ST. N.W. #632
WASHINGTON, DC 20009

In re Application of
Thalhammer-Reyero
Application No. 08/860,975
Filed: December 22, 1997
For: Control Systems Based On Simulated Virtual Models

ON PETITION

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SEP 28 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Thalhammer-Reyero
Application No. 09/568,948
Submitted: May 11, 2000
For: Control Systems Based On Simulated Virtual Models

This is a decision on the petition filed August 7, 2000, requesting that an application filed on December 1, 1999, under 37 CFR 1.53(b) be converted to a continued prosecution application (CPA) under 37 CFR 1.53(d).

On May 11, 2000, a continuation application of prior application 08/860,975 was filed. The application papers included drawings and a declaration. The application papers were accompanied by a "Utility Patent Application Transmittal," a PTO form (PTO/SB/05) which indicates that it is to be used only for new nonprovisional applications under 37 CFR 1.53(b). The application was accompanied by a preliminary amendment which stated in part, "It is hereby requested that this application be considered as a continuation of patent application 08/860,975 under 37 CFR 1.53(d).

The application papers submitted on May 11, 2000, were processed as an incomplete application filed under 37 CFR 1.53(b) and assigned application No. 09/452,268.

The present petition was filed August 7, 2000. Petitioner requests that the application filed May 11, 2000, be converted to a CPA application under 37 CFR 1.53(d) as this was the original intent of the application as shown by the first sentence of the preliminary amendment.

The petition is **GRANTED.**

The application filed May 11, 2000, will be processed as a CPA.

The $130 petition fee will not be refunded since special handling of the application was necessary as a result of applicants' submission of a transmittal letter for an application under 37 CFR 1.53(b) together with a copy of the drawings and declaration from the previous application.

As provided in 37 CFR 1.53(d), the CPA will utilize the file jacket and contents of the prior application and will be assigned the application number of the prior application for identification purposes.

In view of applicant's request in the petition, all papers filed May 11, 2000, except for the CPA transmittal form and the preliminary amendment, will be disregarded.

After mailing of the decision, all funds submitted on May 11, 2000, will be applied to application No. 08/860,975 as the CPA filing fee and additional claims fee.

The application will then be returned to the Office of Initial Patent Examination for merging the file of application No. 09/568,948 into the file of application No. 08/860,975. Application No. 09/568,948 will no longer be an active application number. All future correspondence concerning the continuation application filed May 11, 2000, should be directed to application No. 08/789,883.

Application No. 08/789,883 will then be returned to Technology Center 2700 for processing the application filed May 11, 2000, as a continued prosecution application (CPA) under 37 CFR 1.53(d). The drawings and declaration filed May 11, 2000, will not be entered or used in the processing or examination of the application. The preliminary amendment filed May 11, 2000, will be entered in due course.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 22

TERRY T. MOYER
PO BOX 1927
SPARTANBURG, SC 29304

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APR 26 2004

OFFICE OF PETITIONS

In re Application of
Goineau et al.
Application No. 08/863,113
Filed: May 27, 1997
Attorney Docket No. 1974A

ON PETITION

This decision concerns the September 24, 2003 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

On August 18, 1998, a final Office action was mailed, rejecting all of the pending claims in the application (Claims 11-18).

On August 27, 1998, a Notice of Appeal was filed, followed by an Appeal Brief filed on September 14, 1998.

On September 25, 2001, the USPTO Board of Patent Appeals and Interferences ("Board") in essence affirmed the Examiner's decision to reject Claims 11-18.

Applicants did not, within 2 months of September 25, 2001, file a request for rehearing by the Board or seek judicial review of the Board decision. Given that no claims stand allowed, the proceedings in this application were terminated as of November 26, 2001.[1] Consequently, the application also became abandoned on November 26, 2001.[2]

The instant petition encloses a Request for Continued Examination (RCE) and a "Response to Office Action" as the "submission" required by 37 CFR 1.114(c); authorizes the USPTO to charge the $1,330 petition fee and the $770 RCE filing fee to Deposit Account No. 04-0500; and states in effect that the entire delay in seeking to revive this application was unintentional. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE.

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1 MPEP 1214.03, 1214.06(I) (Rev. 1, Feb. 2003).

2 *Id.*

Finally, the petition, filed by Assignee, uses a correspondence address different from that in the USPTO record for this application. While a courtesy copy of this decision is being sent to the address indicated in the petition, all future correspondence on this application will be mailed to the address-of-record unless the USPTO is properly instructed otherwise.

The application file is being forwarded to Technology Center 3700 for further examination.

Telephone inquiries on this decision should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Sara M. Current, Esq.
Milliken & Company
Legal Department, M-495
920 Milliken Road
Spartanburg, SC 29303

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 32

QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121-1714

MAILED

MAR 2 8 2003

Technology Center 2600

In re Application of:
Krishnamurthi, et al.
Application No. 08/863,457
Filed: May 27, 1997
For: METHOD AND APPARATUS FOR PROVIDING AN ALERT WITH INFORMATION SIGNAL BETWEEN A MOBILE SWITCHING CENTER AND A BASE STATION

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed January 21, 2003 and resubmitted on January 28, 2003.

*The petition is **granted**.*

This application became abandoned for failure to timely reply to a final Office action mailed on November 5, 2001. A shortened statutory period of three (3) months was set for applicant to respond. No response was entered into the record within the period for response. The application was considered abandoned as of February 6, 2002. A Notice of Abandonment was mailed December 17, 2002.

Petitioner alleges to have timely filed a Request for Continued Examination (RCE). To support this position, Petitioner has included with the petition a copy of the USPTO receipt that is date stamped February 4, 2002, indicating PTO receipt of the RCE before the expiration of the period for response to the final Office action.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[a] postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file.

Therefore, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

Copies of the RCE papers were included with the petition. These papers have been entered into the application file. The file will be forwarded to the examiner for further consideration in due course.

Jim F. Ng, Director
Technology Center 2600
Communications

10-8-03

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : ~~6-4-01~~ 6-1-02 8-19-03 Paper No.: 14

TO : Supervisor, Art Unit 1600 1651

SUBJECT : Certificate of Correction Request in Patent No.: 6117176

A response to the following question(s) is requested with respect to the accompanying request for a certificate of correction.

- [x] 1. Would the change(s) requested, under 37 C.F.R. 1.323, correcting Applicant/Attorney's (A or Atty.) errors, constitute new matter or require reexamination of the application?
- [x] 2. Would the change(s) requested, under 37 C.F.R. 1.323, correcting Applicant/Attorney's (A or Atty.) errors, materially affect the scope or meaning of the claims allowed by the examiner in the patent?
- [ ] 3. Applicant disagrees with change(s) initialed and dated by Examiner in lieu of an Examiner's Amendment. Should the change request be granted?
- [x] 4. With respect to the change(s) requested, correcting Office and/or printing (O, Off, C, and/or P) errors, should the patent read as shown in the certificate of correction?
- [ ] 5. If the amendment filed _____ had been considered by the Examiner, would the amendment have been entered?

PLEASE RESPOND WITHIN 7 DAYS AND RETURN THE FILE TO PALM LOCATION. 7580, CERTIFICATES OF CORRECTION BR, PARK 3 - ~~918~~ 922, Thank you

Valerie Jackson
Legal Instrument Examiner
Tel. No. 305-8364

EXPEDITE

PLEASE CHECK THE BOX(ES) BELOW CORRESPONDING TO THE BOXES CHECKED FOR QUESTION(S) ABOVE AND RETURN FILE TO: PALM LOCATION 7580, CERT. OF CORREC. BR., PK 3 - 918

DATE:

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 _____

Please Sign and Return to Valerie Thank you!

Supervisor

1651
Art Unit

PTOL-306 (REV. 10/87) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

REVIEW

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,117,176
DATED : September 12, 2000
INVENTOR(S) : John Y. Chen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 1,
Line 14, after year "1994" delete ";".
Line 14, after the number "286" add -- ; --.
Lines 21-25, delete the following:
"which in turn is a CIP of 957,290); now U.S. Pat. No. 5,334,646 Ser. No. 08/152,743, filed Nov. 15, 1993 now U. S. Pat. No. 5,629.294 (CIPs of 114.688; 935,540; 876,118; 705,096; 957,290; 705,711"
and add
-- The above patents and applications are specifically incorporated herein by reference. --.

Column 3,
Line 23, after the word "articles" before the period add the following:

-- as shown generally by the relationship of G_n and M_n and more specific article examples of M_1, M_2, M_3, and M_4 with G_n when the material M_n is n = 1 (fabric/cloth), n = 2 (foam/sponge), n = 3 (synthetic resin/plastic), and n = 4 (fibre) a s shown in Figs 3d, 3e, 3h, and 3j respectively --.

Line 25, after the word "articles" before the period add the following:

-- as shown generally by the relationship of G_n and M_n and more specific article examples of M_1, M_2, M_3, and M_4 with G_n when the material M_n is n = 1 (fabric/cloth), n = 2 (foam/sponge), n = 3 (synthetic resin/plastic), and n = 4 (fibre) a s shown in Figs 4l, 4m, 4n, and 4q respectively --.

Line 26, delete the polymer notation: "S-E-EB-S" and add -- S-E-EP-S --.

Column 6,
Line 59, "poly(butadine)" and add -- poly(butadiene) --.

Column 9,
Line 8, delete "polybutadine" and add -- polybutadiene --.
Line 54, delete "negligable" and add -- negligible --.
Line 67, delete "detactable" and add -- detectable --.

Column 10,
Line 47, delete "resutls" and add -- results --.

Column 12,
Line 15, delete "glass a transition" and add -- a glass transition --.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,117,176
DATED : September 12, 2000
INVENTOR(S) : John Y. Chen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 13,
Line 9, delete "amorpous" and add -- amorphous --.

Column 15,
Line 44, delete "steraric" and add -- stearic --.

Column 23,
Lines 2-20, correct claim 1 by deleting:

"1. An improved gelatinous composition comprising: a crystal gel formed from (I) 100 parts by weight of one or more linear, branched, star-shaped (radial), or multiarm block copolymers or mixtures of two or more such block copolymers, said block copolymers having one or more midblocks, said midblocks comprising one or more substantially crystalline polyethylene midblocks and with one or more amorphous midblocks; optionally in combination with a selected amount of one or more of (II) a polymer or copolymer, and selected amounts of a plasticizing oil (III) sufficient to achieve gel rigidities of from less than about 2 gram Bloom to about 1,800 gram Bloom with the proviso that said block copolymers without any amorphous midblocks are combined with at least one block copolymer having at least one amorphous midblock, wherein said block midblocks of copolymers forming said crystal gel having a selected amount of crystallinity sufficient to exhibit a melting endotherm of at least about 40°C as determined by DSC curve."

and adding the corrected claim 1 as follows:

-- 1. An improved gelatinous composition comprising: a crystal gel formed from (I) 100 parts by weight of one or more linear, branched, star-shaped (radial), or multiarm block copolymers or mixtures of two or more such block copolymers, said block copolymers having one or more midblocks, said midblocks comprising one or more substantially crystalline polyethylene midblocks and with (I) one or more amorphous midblocks or (ii) without amorphous midblocks, in combination with or without a selected amount of one or more of (II) a polymer or copolymer, and selected amounts of (III) a plasticizing oil sufficient to achieve gel rigidities of from less than about 2 gram Bloom to about 1,800 gram Bloom, with the proviso when said (I) block copolymers without any amorphous midblocks are combined with at least one block copolymer having at least one amorphous midblock, that said midblocks of said (I) block copolymers forming said crystal gel comprises a selected amount of crystallinity sufficient to exhibit a melting endotherm of at least about 40°C as determined by DSC curve. --

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,117,176
DATED : September 12, 2000
INVENTOR(S) : John Y. Chen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 23 cont'd,

Lines 21-45, correct claim 2 by deleting:

"2. An improved gelatinous composition comprising: a crystal gel formed from 100 parts by weight of one or more block copolymers or mixtures of two or more such block copolymers, said block copolymers having the formula poly(styrene-ethylene-ethylene-butylene-styrene), poly(styrene-ethyleneb$_{45}$-ethylene-propylene-styrene), poly(styrene-ethylene-ethylene-butylene$_{25}$-styrene), poly(styrene-ethylene-ethylene-propylene-ethylene-styrene), poly(styrene-ethylene-propylene-ethylene-styrene), poly(styrene-ethylene-propylene-ethylene-ethylene-propylene-styrene),poly(styrene-ethylene-ethylene-butylene)$_n$, poly(styrene-ethyleneb$_{45}$-ethylene-propylene)$_n$, poly(styrene-ethylene-ethylene-butylene$_{25}$)$_n$, poly(styrene-ethylene-ethylene-propylene-ethylene)$_n$, poly(styrene-ethylene-propylene-ethylene)$_n$, poly(styrene-ethylene-propylene-ethylene-ethylene)$_n$, midblocks comprising one or more substantially crystalline polyethylene midblock segment, wherein subscript n is two or more; in combination with or without a selected amount of one or more of a (II) polymer or copolymer, and selected amounts of a plasticizing oil (III) sufficient to achieve gel rigidities of from less than about 2 gram Bloom to about 1,800 gram Bloom, wherein said gel is capable of exhibiting greater tear resistance or greater fatigue resistance than a gel having a corresponding rigidity made from a substantially amorphous poly(styrene-ethylene-butylene-styrene) or poly(styrene-ethylene-propylene-styrene) block copolymers having substantially non-crystalline polyethylene midblock segments."

add the corrected claim 2 as follows:

– 2. An improved gelatinous composition comprising: a crystal gel formed from (I) 100 parts by weight of one or more of the same block copolymers or mixtures of two or more of a different block copolymers, said block copolymers having the formula poly(styrene-ethylene-ethylene-butylene-styrene), poly(styrene-ethylene-ethylene-propylene-styrene), poly(styrene-ethylene-ethylene-butylene$_{25}$-styrene), poly(styrene-ethylene-ethylene-propylene-ethylene-styrene), poly(styrene-ethylene-propylene-ethylene-styrene), poly(styrene-ethylene-propylene-ethylene-ethylene-propylene-styrene), poly(styrene-ethylene-ethylene-butylene)$_n$, poly(styrene-ethylene-ethylene-propylene)$_n$, poly(styrene-ethylene-ethylene-butylene$_{25}$)$_n$, poly(styrene-ethylene-ethylene-propylene-ethylene)$_n$, poly(styrene-ethylene-propylene-ethylene)n, poly(styrene-ethylene-propylene-ethylene-ethylene-propylene)$_n$, midblocks comprising one or more substantially crystalline polyethylene midblock segment(s), wherein subscript n is two or more; wherein said (I) block copolymers in combination with or without a selected amount of one or more of (II) a polymer or copolymer, and selected amounts of (III) a plasticizing oil sufficient to achieve a gel rigidity of from less than about 2 gram Bloom to about 1,800 gram Bloom, wherein said gel is capable of exhibiting greater tear resistance or greater fatigue resistance than a gel having a corresponding rigidity made from a substantially amorphous poly(styrene-ethylene-butylene-styrene) or poly(styrene-ethylene-propylene-styrene) block copolymers having substantially non-crystalline polyethylene midblock segments. –

CERTIFICATE OF CORRECTION

PATENT NO. : 6,117,176
DATED : September 12, 2000
INVENTOR(S) : John Y. Chen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 23 cont'd,
Lines 50-59, correct claim 4 by deleting:

"4. (Once amended) A gel according to claim 1 or 2, wherein said gel exhibits in differential scanning calorimeter (DCS) a melting endotherm of about 28°C, 29°C, 30oC, 31oC, 32oC, 33°C, 34°C, 35°C, 36°C, 37°C, 38°C, 39°C, 40°C, 41°C, 42°C, 43°C, 44°C, 45°C, 46°C, 47°C, 48°C, 49°C, 50°C, 51°C, 52°C, 53°C, 54°C, 55°C, 56°C, 57°C, 58°C, 59°C, 60°C, 61°C, 62°C, 63°C, 64°C, 65°C, 66°C, 67°C, 68°C, 69°C, 70°C, 71°C, 72°C, 73°C, 74°C, 75°C, 76°C, 77°C, 78°C, 79°C, 80°C, 90°C, 100°C, 110°C, or 120°C."

add the corrected claim 4 as follows:

4. A gel according to claim 1 or 2, wherein said gel exhibits in differential scanning calorimeter (DSC) a melting endotherm of about 25°C, 28°C, 29°C, 30°C, 31°C, 32°C, 33°C, 34°C, 35°C, 36°C, 37°C, 38°C, 39°C, 40°C, 41°C, 42°C, 43°C, 44°C, 45°C, 46°C, 47°C, 48°C, 49°C, 50°C, 51°C, 52°C, 53°C, 54°C, 55°C, 56°C, 57°C, 58°C, 59°C, 60°C, 61°C, 62°C, 63°C, 64°C, 65°C, 66°C, 67°C, 68°C, 69°C, 70°C, 71°C, 72°C, 73°C, 74°C, 75°C, 76°C, 77°C, 78°C, 79°C, 80°C, 90°C, 100°C, 110°C, or 120°C. --

Column 24,
Lines 14-25, correct claim 6 by deleting:

"6. A gel according to claim 1 or 2, wherein said gel is being denoted by G, is physically interlocked with a selected material M forming a composite of the combination G_nM_n, $G_nM_nG_n$, $M_nG_nM_n$, $M_nG_nG_nM_n$, $G_nM_nM_nG_n$, $G_nM_nG_nM_nG_n$, $M_nM_nM_nG_n$, $M_nM_nM_nG_nM_nM_nM_n$ or a permutation of one or more of said G_n with M_n; wherein when n is a subscript of M, n is the same or different selected from the group consisting of paper, foam, plastic, fabric, metal, metal foil, concrete, wood, glass, glass fibers, ceramics, synthetic resin, synthetic fibers or refractory materials; and wherein when n is a subscript of G, n denotes the same or a different gel rigidity."

add correced claim 6 as follows:

-- 6. A gel according to claim 1 or 2, wherein said gel is being denoted by G, is physically interlocked with a selected material M or in combination with one or more of the same gel or a different gel forming a composite of the combination G_nG_n, $G_nG_nG_n$, G_nM_n, $G_nM_nG_n$, $M_nG_nM_n$, $M_nG_nG_n$, $M_nM_nM_nG_nM_n$, $M_nG_nG_nM_n$, $G_nM_nG_nG_n$, $G_nG_nM_nM_n$, $G_nM_nM_nG_n$, $G_nG_nM_nG_nM_nG_nG_n$, $G_nM_nG_nM_nM_n$, $M_nG_nM_nG_nM_nG_n$, $G_nG_nM_nM_nG_n$, $G_nG_nM_nG_nM_n$, $G_nG_nM_nG_nM_nG_n$, $G_nM_nG_nM_nG_n$, $M_nM_nM_nG_n$, $M_nM_nM_nG_nM_nM_nM_n$ or a permutation of one or more of said G_n with M_n; wherein when n is a subscript of M, n is the same or different selected from the group consisting of paper, foam, plastic, fabric, metal, metal foil, concrete, wood, glass, glass fibers, ceramics, synthetic resin, synthetic fibers or refractory materials; and wherein when n is a subscript of G, n denotes the same or a different gel rigidity.--

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,117,176
DATED : September 12, 2000
INVENTOR(S) : John Y. Chen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 24 cont'd,

Lines 26-46, correct claim 7 by deleting:

"7. (Twice amended) A gel according to claim 1 or 2 wherein said gel being formed into a gel hand exercising grip, a gel shape floss suitable for use as a dental floss, a gel crutch cushion, a gel cervical pillow, a gel bed wedge pillow, a gel leg rest, a gel neck cushion, a gel mattress, a gel bed pad, a gel elbow pad, a gel dermal pad, a gel wheelchair cushion, a gel helmet liner, a gel cold and hot pack, a gel exercise weight belt, a gel traction pad or belt, a gel cushion for splints, a gel sling, a gel brace for the hand, wrist, finger, forearm, knee, leg, clavicle, shoulder, foot, ankle, neck, back, rib, a gel sole for orthopedic shoe, a gel shaped toy article, a gel optical cladding for cushioning optical fibers from bending stresses, a gel swab tip, a gel fishing bate, a gel seal against pressure, a gel thread, a gel strip, a gel yarn, a gel tape, a weaved gel cloth, a gel fabrics, a gel balloon for valvuloplasty of the mitral valve, a gel trointestinal balloon dilator, a gel esophageal balloon dilator, a gel dilating balloon catheter use in coronary angiogram, a gel condom, a gel toy balloon, a gel surgical and examination glove, a self sealing enclosures for splicing electrical and telephone cables and wires, a gel film, or a gel liner."

add the corrected claim 7 as follows:

-- 7. A gel according to claim 1 or 2, wherein said gel being formed into a gel hand exercising grip, a gel shape floss suitable for use as a dental floss, a gel crutch cushion, a gel cervical pillow, a gel bed wedge pillow, a gel leg rest, a gel neck cushion, a gel mattress, a gel bed pad, a gel elbow pad, a gel dermal pad, a gel wheelchair cushion, a gel helmet liner, a gel cold and hot pack, a gel exercise weight belt, a gel traction pad or belt, a gel cushion for splints, a gel sling, a gel brace for the hand, wrist, finger, forearm, knee, leg, clavicle, shoulder, foot, ankle, neck, back, rib, a gel sole for orthopedic shoe, a gel shaped toy article, a gel optical cladding for cushioning optical fibers from bending stresses, a gel swab tip, a gel fishing bate, a gel seal against pressure, a gel thread, a gel strip, a gel yarn, a gel tape, a weaved gel cloth, a gel fabrics, a gel balloon for valvuloplasty of the mitral valve, a gel trointestinal balloon dilator, a gel esophageal balloon dilator, a gel dilating balloon catheter use in coronary angiogram, a gel condom, a gel toy balloon, a gel surgical and examination glove, a self sealing enclosures for splicing electrical and telephone cables and wires, a gel film, or a gel liner. --

Lines 47-59, correct claim 8 by deleting:

"8. A gel according to claim 1 or 2, wherein said gel is being denoted by G, is physically interlocked with a selected material M or in combination with one or more of the same gel or different gel forming a composite of the combination G_nG_n, $G_nG_nG_n$, G_nM_n, $G_nM_nG_n$, $M_nG_nM_n$, $M_nG_nG_n$, $M_nM_nM_nG_nM_n$, $M_nG_nG_nM_n$, $G_nM_nG_nG_n$, $G_nG_nM_nM_n$, $G_nM_nM_nG_n$, $G_nG_nM_nG_nM_nG_nG_n$, $G_nM_nG_nM_nM_n$, $M_nG_nM_nG_nM_nG_n$, $G_nG_nM_nM_nG_n$, $G_nG_nM_nG_nM_n$, $G_nG_nM_nG_nM_nG_n$ or a permutation of one or more of said G_n with M_n; wherein when n is a subscript of M, n is the same or different selected from the group consisting of paper, foam, plastic, fabric, metal, metal foil, concrete, wood, glass, glass fibers, ceramics, synthetic resin, synthetic fibers or ~~refractory materials; and wherein when n is a subscript of G, n denotes the same or a~~ different gel rigidity."

CERTIFICATE OF CORRECTION

PATENT NO. : 6,117,176
DATED : September 12, 2000
INVENTOR(S) : John Y. Chen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 24 cont'd,

Add the corrected claim 8 as follows:

-- 8. A gel according to claim 5, wherein said composite being formed into a gel hand exercising grip, a gel shape floss suitable for use as a dental floss, a gel crutch cushion, a gel cervical pillow, a gel bed wedge pillow, a gel leg rest, a gel neck cushion, a gel mattress, a gel bed pad, a gel elbow pad, a gel dermal pad, a gel wheelchair cushion, a gel helmet liner, a gel cold and hot pack, a gel exercise weight belt, a gel traction pad or belt, a gel cushion for splints, a gel sling, a gel brace for the hand, wrist, finger, forearm, knee, leg, clavicle, shoulder, foot, ankle, neck, back, rib, a gel sole for orthopedic shoe, a gel shaped toy article, a gel optical cladding for cushioning optical fibers from bending stresses, a gel swab tip, a gel fishing bate, a gel seal against pressure, a gel thread, a gel strip, a gel yarn, a gel tape, a weaved gel cloth, a gel fabrics, a gel balloon for valvuloplasty of the mitral valve, a gel trointestinal balloon dilator, a gel esophageal balloon dilator, a gel dilating balloon catheter use in coronary angiogram, a gel condom, a gel toy balloon, a gel surgical and examination glove, a self sealing enclosures for splicing electrical and telephone cables and wires, a gel film, or a gel liner. --

Lines 60-65, correct claim 9 by deleting:

"9. A composite of claim 6 shaped in the form of a gel liner for lower limb or above the knee amputee prosthesis formed by injection molding, extruding, spinning, casting, or dipping of said gel in combination with M selected from foam, plastic, fabric, metal, ceramics, synthetic resin, synthetic fibers or refactory materials."

add the corrected claim 9 as follows:

-- 9. A composite of claim 6 shaped in the form of a gel liner for lower limb or above the knee amputee prosthesis formed by injection molding, extruding, spinning, casting, or dipping of said gel, wherein said gel comprises at least one said block copolymer of poly(styrene-ethylene-ethylene-propylene-styrene), poly(styrene-ethylene-ethylene-propylene)$_n$, poly(styrene-ethylene-ethylene-butylene-styrene), or poly(styrene-ethylene-ethylene-butylene)$_n$ or a mixture of two or more of said block copolymers. --

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,117,176
DATED : September 12, 2000
INVENTOR(S) : John Y. Chen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Columns 24, 25 & 26,
Lines 66-67, 1-4 & 1-2, correct claim 10 respectively by deleting:

"10. A composite of claim 8 shaped in the form of a gel liner for lower limb or above the knee amputee prosthesis formed by injection molding, extruding, spinning, casting, or dipping of said gel in combination with or without M selected from foam, plastic, fabric, metal, ceramics, synthetic resin, synthetic fibers or refactory materials and in combination with or without one or more gels having a different rigidity."

add the corrected claim 10 as follows:

-- 10. A gel of claim 4 shaped in the form of a gel liner for lower limb or above the knee amputee prosthesis formed by injection molding, extruding, spinning, casting, or dipping of said gel, wherein said gel comprises at least one said block copolymer of poly(styrene-ethylene-ethylene-propylene-styrene), poly(styrene-ethylene-ethylene-propylene)$_n$, poly(styrene-ethylene-ethylene-butylene-styrene), or poly(styrene-ethylene-ethylene-butylene)$_n$, or a mixture of two or more of said block copolymers. --

Signed and Sealed this

Twenty-eighth Day of October, 2003

JAMES E. ROGAN
Director of the 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
www.uspto.gov

In re Patent No. 6017242
Issue Date: January 25,2000
Application No. 08864177
Filed: May 28,1997
Attorney Docket No. 37495

:
: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.

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)
6017242	2000-01-25	08864177	1997-05-28	TEN-897

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 A. Summe/	Date (YYYY-MM-DD)	2008-03-26
Name	Kurt A. Summe	Registration Number	36023

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).

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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. 6141910
Issue Date: November 7,2000
Application No. 08864391
Filed: May 28,1997
Attorney Docket No. 11361-6215

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 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 November 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 the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6141910	2000-11-07	08864391	1997-05-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Dean B. Watson/	Date (YYYY-MM-DD)	2008-11-26
Name	Dean B. Watson	Registration Number	43242

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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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.

#43
DW

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

JUN 14 2002

Staas and Halsey
700 11th Street N.W.
Suite 500
Washington, D.C. 20001

MAILED
JUN 14 2002
OFFICE OF THE DIRECTOR
TC 3600

In re application of
Tokimori Tomita et al
Application No. 08/864,762
Filed: January 28, 1994
For: SERVICE POINT MANAGEMENT SYSTEM FOR USE IN SALE PROMOTION SERVICES

DECISION ON PETITION TO RESET A PERIOD FOR REPLY

This is in reply to the Petition to Reset a Period for Reply Due to Late Receipt of an Office action, received in the Patent and Trademark Office on February 12, 2002. There is no fee required for this petition.

The petition is **DISMISSED**.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g. at least 1 month of a 2- or 3- month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address, and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt.

A review of the file record reveals that an Office action was mailed to the address of record on December 4, 2001. Applicant has provided a copy of the Office action bearing a stamped date of receipt of February 11, 2002 at the correspondence address of record. However, as explained in the petition, the mail is date stamped in the Docketing Department. Since the mail is received in Office Services section of the firm, and then distributed to the Docketing Department, there may have been delay in handling the mail between the Office Services section and the Docketing Department. In other words, the actual receipt date of the mail at the firm is not reflected in the evidence submitted. Therefore, the petition is dismissed.

The application is being returned to central storage files to await applicant's response to the Office action mailed December 4, 2001.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Kenneth Dorner at (703) 308-0866.

Kenneth J. Dorner for

John J. Love, Director
Patent Technology Center 3600
(703) 306-5484
Facsimile No.: (703) 306-4597

Kjd:6/12/02

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 33

The Procter & Gamble Co.
Intellectual Property Division
Winton Hill Technical Center – Box 161
6110 Center Hill Avenue
Cincinati, OH 45224

COPY MAILED

MAY 1 5 2003

OFFICE OF PETITIONS

In re application of
E. H. Wahl et al.
Application No. 08/864,875
Filing Date: May 20, 1997
Attorney Docket No. 6173R

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 1, 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 September 9, 2002 to 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 November 10, 2002. See MPEP 1214.06.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center 1751 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

UNITED STATES 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. 6297846
Issue Date: October 2,2001
Application No. 08865027
Filed: May 29,1997
Attorney Docket No. FUJR14.277

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 12,2010 . 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)
6297846	2001-10-02	08/865,027	1997-05-29	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
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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.

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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	/Bradley D. Lytle/	Date (YYYY-MM-DD)	2010-02-12
Name	Bradley D. Lytle	Registration Number	40073

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAR 1 5 2000

#22

JACOBSON PRICE HOLMAN AND STERN
THE JENIFER BUILDING
400 SEVENTH STREET NW
WASHINGTON , DC 20004-2201

In re Application of
Jim Appino et al
Serial No.: 08/865,044
Filed: May 29, 1997
Attorney Docket No.: 11285/P59317

: WITHDRAWAL OF ABANDONMENT

This is in response to applicants' petition under 37 CFR 1.181, filed December 30, 1999, requesting withdrawal of the holding of abandonment based on the filing of a timely response to the Office action mailed April 12, 1999

A review of the file history shows that the examiner mailed an Office action to applicants on April 12, 1999, setting a three month shortened statutory time period for reply. On December 21, 1999, the examiner mailed a Notice of Abandonment to applicants indicating no response to the Office action had been received..

Applicants aver that a reply was filed on October 12, 1999, as evidenced by the Office date stamped return postcard showing a date received of October 12, 1999. Applicants provide a copy of the submitted reply, a request for a CPA, with the petition. The reply was accompanied by a request and fee for a three month extension of time. In view of applicants' timely response the Notice of Abandonment is rescinded as having been mailed in error.

Applicants' petition is **GRANTED.** The application is restored to pending status with the mailing of this decision and will be forwarded for processing as a CPA.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600/2900, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 308-7922.

John Kittle
Director, Technology Center 1600/2900

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

NOV -8 2002

Paper No. 25

In re Application of
Wayne G. Foster *et al*
Application No. 08/865,324
Filed: May 30, 1997
Attorney Docket No. 2500-043

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on October 24, 2002 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated July 31, 2001. No fee is required for the petition.

The petition is granted.

Petitioners allege that a timely reply to the Office letter in question was in fact filed. Petitioners support this allegation by including a copy of the reply. The reply has affixed thereto a 37 CFR 1.8(a) certificate dated August 21, 2001. Pursuant to 37 CFR 1.8(b), petitioners have established that a timely reply to the Office letter in question was in fact filed in the Office on October 31, 2001. In addition, it appears that the correspondence was actually received in the Office as evidenced by a post card receipt therefor that is dated February 8, 2002. Petitioners have established that this application was not in fact abandoned.

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 examiner for action on the reply filed on February 8, 2002, certificate of mailing date October 31, 2001.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

RHOADS COATS & BENNETT
P.O. BOX 2974
GREENSBORO, NC 27402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 21

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OFFICE OF PETITIONS

Kevin B. Laurence
Stoel Rives LLP
900 SW Fifth Avenue, Suite 2300
Portland OR 97204-1268

In re Application of
Tsai et al.
Application No. 08/865,945
Filed: May 30, 1997
Attorney Docket No. 30222/20:68
Title: MULTILAYER POLYAMIDE FILM STRUCTURES

DECISION ON PETITION

This is a decision on the petition filed October 16, 2001, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 9, 1999, which set a statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees. Accordingly, the above-identified application became abandoned on February 10, 2000. A Notice of Abandonment was mailed on June 8, 2000.

The petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of the payment of the petition fee, the payment of the issue fee, and made the proper statement of unintentional delay.

Receipt of the Change of Address, Revocation of Power of Attorney, and the Issue Fee Transmittal Form (PTOL-85b) are acknowledged.

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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.

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[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 unintentional, petitioner must notify the Office.

The application file is being forwarded to the Office of Patent Publication for further processing. Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

E. Shirene Willis for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 25

KEVIN B. LAURENCE
STOEL RIVES LLP
900 SW FIFTH AVENUE, SUITE 2300
PORTLAND OR 97204-1268

COPY MAILED

FEB 21 2002

OFFICE OF PETITIONS

In re Application of
Paul Angello et al
Application No. 08/865,945
Filed: May 30, 1997
Attorney Docket No. 30222/20:68

ON PETITION

This is a decision on the petition, filed by facsimile transmission on February 20, 2002,[1] 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 October 16, 2001 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[2]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center AU 1773 for processing of 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

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[1]Evidence has been provided to show that the original petition was submitted to the United States Patent and Trademark Office on February 12, 2002.

[2] 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. **Failur to *timely* request *in writing* that the previously paid issue fe 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 26

Date : February 21, 2002

TO : Director, Office of Publication and Dissemination

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Mingliang L. Tsai et al
Application No. : 08/865,945
Filed : May 30, 1997

The above-identified application has been assigned Patent No. 6,350,528 and an issue date of February 26, 2002.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 26, 2002:

"All reference to Patent No. 6,350,528 to Mingliang L. Tsai et al of New Jersey for MULTILAYER POLYAMIDE FILM STRUCTURES appearing in the Official Gazette of February 26, 2002 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Geraldine Dozier, Crystal Park 3-441 (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Janet Higgins, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis, P/OCS, CM1-6A07

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 42

McGinn & Gibb PLLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

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JAN 30 2003

OFFICE OF PETITIONS

In re Application of :
Toshiya Uemura, et al. :
Application No. 08/866,129 :
Filed: May 30, 1997 :
Attorney Docket No. F97-121-USCONT2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 31, 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 final Office action mailed January 22, 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 above-identified application became abandoned on July 23, 2002.

Petitioner submitted a Request for Continued Examination (RCE), without the proper submission on July 10, 2002. Accordingly, the Request for Continued Examination (RCE) was improper under 37 CFR 1.114. A submission was filed on November 8, 2002, which is after the date of abandonment of the application. Petitioner has supplied a copy of the submission filed on November 8, 2002 with the present petition. Therefore, the application is being revived solely for purposes of continuity with the Request for Continuation Examination (RCE) filed on July 10, 2002.

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 2800, Art Unit 2814, for processing the Request for Continued Examination under 37 CFR 1.114.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
Petitions Examiner

DO NOT SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/5/07

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/866744 Patent No.: 7155701

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: The 9/6/05 claim amendment deleted the limitations which applicant proposes to add to patented claims 43 and 44 (claims 23 and 24 before renumbering) and the proposed changes would affect the scope of claims 43 and 44. The proposed change to patented claim 53 (claim 32 before renumbering) proposes to add redundantly the same claimed phrase already present at column 10 line 18 and this change requires reexamination due to the redundancy.

Examiner
Jeffery A. Brier

SPE

5/7/07
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

BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

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OCT 0 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,155,701	:	
Issue Date: December 26, 2006	:	
Application No. 08/866,744	:	ON PETITION
Filed: May 30, 1997	:	
Attorney Docket No.OID06-12(1504)	:	

This is a decision on the petition filed April 23, 2008, under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON, P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
David CORBOY	:	
Application No. 08/866,857	:	DECISION ON PETITION
Filed: May 30, 1997	:	TO WITHDRAW
Attorney Docket No. 06651/008001	:	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 April 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

Scott R. Boalick has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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In re Patent No. 5820970
Issue Date: October 13,1998
Application No. 08866987
Filed: June 2,1997
Attorney Docket No. IPC-107A

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed July 31,2008 ,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 July 31,2008 . 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.

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)
5,820,970	1998-10-13	08/866,987	1997-06-02	IGP 1853

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	/TAN-CHI YUAN/	Date (YYYY-MM-DD)	2008-07-31
Name	Tan-Chi Yuan	Registration Number	62449

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. 5993665
Issue Date: November 30,1999
Application No. 08867008
Filed: June 2,1997
Attorney Docket No. VDX5059USNP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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.

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)
5993665	1999-11-30	08867008	1997-06-02	VDX5059USNP

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph F. Aceto/	Date (YYYY-MM-DD)	2009-09-03
Name	Joseph F. Aceto	Registration Number	50701

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5985153
Issue Date: November 16,1999
Application No. 08867009
Filed: June 2,1997
Attorney Docket No. VDX5059USNP1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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.

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)
5985153	1999-11-16	08867009	1997-06-02	VDX5059USNP1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph F. Aceto/	Date (YYYY-MM-DD)	2009-09-03
Name	Joseph F. Aceto	Registration Number	50701

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.

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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. 6013188
Issue Date: January 11,2000
Application No. 08867233
Filed: June 2,1997
Attorney Docket No. VDX5059USNP2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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.

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PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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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)
6013188	2000-01-11	08867233	1997-06-02	VDX5059USNP2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph F. Aceto/	Date (YYYY-MM-DD)	2009-09-03
Name	Joseph F. Aceto	Registration Number	50701

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

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NOTICE RE: CERTIFICATES OF CORRECTION 12/06/01

DATE : _____ Paper No. 20

TO : Supervisor, Art Unit _____

SUBJECT : Certificate of Correction Request in Patent No.: _____

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, constitut 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 -922,
Thank you

Supervisory Legal Instrument Examiner
Tel. No. 305-8228

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 - 922 | 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 Disapprove: No evidence found to support that the examiner ever consider the refrenes during prosecution. Applicant ~~Atty~~ must furnish a copy of PTO 1449 with the examiner's initial if request reconsideration is desire.

Don Wong
Supervisory Patent Examiner
Technology Center 2800

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6172808
Issue Date: January 9,2001
Application No. 08867604
Filed: June 2,1997
Attorney Docket No. 338092000101

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 8,2007 ,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 January 8,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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)
6172808	2001-01-09	08867604	1997-06-02	

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☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

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SURCHARGE
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))
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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	/James C. Peacock III/	Date (YYYY-MM-DD)	2007-01-08
Name	James C. Peacock III	Registration Number	40124

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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 28

SETH A. FIDEL
ALEXION PHARMACEUTICALS INC
25 SCIENCE PARK
SUITE 360
NEW HAVEN, CT 06511

COPY MAILED

JAN 23 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Yi Wang et al.
Application No. 08/867,612
Filed: June 2, 1997
Attorney Docket No. ALX-149

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 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 November 10, 1999, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 11, 2000.

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 $840 extension of time submitted with the petition on November 8, 2000 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The power of attorney filed concurrently with the petition is not acceptable and will not be entered since compliance with 37 CFR 3.373(b) has not been satisfied.

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.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6900658
Issue Date: May 31,2005
Application No. 08867675
Filed: June 2,1997
Attorney Docket No. 11050.0012

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed March 30,2010 ,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 March 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)
6900658	2005-05-31	08867675	1997-06-02	PHLV1418-025

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	/Lance C. Venable/	Date (YYYY-MM-DD)	2010-03-30
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.

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)
5904258	1999-05-18	08867866	1997-06-03	AIF28925

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/joseph h mcglynn/	Date (YYYY-MM-DD)	2009-05-11
Name	Joseph H. McGlynn	Registration Number	38028

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.

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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.

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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. 5904258
Issue Date: May 18,1999
Application No. 08867866
Filed: June 3,1997
Attorney Docket No. AIF28925

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 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.

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)
5943877	1999-08-31	08868189	1997-06-03	70185-New(6185-192)

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	/Billy A. Robbins/	Date (YYYY-MM-DD)	2008-06-20
Name	Billy A. Robbins	Registration Number	18313

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. 5943877
Issue Date: August 31,1999
Application No. 08868189
Filed: June 3,1997
Attorney Docket No. 6185192

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 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 June 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 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. 15

MICHAEL A GLENN
P O BOX 7831
MENLO PARK , CA 94026

Mailed

JUL 2 1 2000

Director's Office
Group 2700

In re Application of:
Joseph Giordano, III
Application No.: 08/868,216
Filed: June 3, 1997
For: METHOD AND APPARATUS FOR ICONIFYING AND AUTOMATICALLY DIALING TELEPHONE NUMBERS WHICH APPEAR ON A WEB PAGE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw as Attorney or Agent of record filed, June 20, 2000.

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**.

It is noted that the Request for Withdrawal as Attorney or Agent is only effective for Michael A. Glenn, since he is the only attorney/agent specifically mentioned in the request and there is no other indication that he is signing on behalf of any other practitioners.

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: David Ritchie
D'Alessandro & Ritchie
1731 Technology Drive, Ste. 170
San Jose, CA 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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Paper No. 31
32 BCD

Glenn Patent Group
3475 Edison Way, Suite L
Menlo Park, CA 94025

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FEB 1 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Giordana III
Application No. 08/868,216
Filed: June 3, 1997
Attorney Docket No. INFG0002

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2003, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b).

The person signing the instant petition also requests a change of correspondence address to the address given in the instant petition. There is, however, 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 Marlon Fletcher at (703) 305-4066 or, in his absence to the undersigned at (703) 308-3865.

The application file is being forwarded to Technology Center 2600 for further examination.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Cc: David B. Ritchie
P.O. Box 640640
San Jose, CA 95164-0640

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)
6093455	2000-07-25	08868409	1997-06-03	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Andrew Schlossman/	Date (YYYY-MM-DD)	2008-10-02
Name	Andrew Schlossman		
Enter Reel and Frame Number		Remove	
Reel Number	008790	Frame Number	0447
Enter Reel and Frame Number		Remove	
Reel Number	009109	Frame Number	0030
Enter Reel and Frame Number		Remove	
Reel Number	010406	Frame Number	0597
Enter Reel and Frame Number		Remove	
Reel Number	012273	Frame Number	0282
Enter Reel and Frame Number		Remove	
Reel Number	013067	Frame Number	0152
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. 6093455
Issue Date: July 25,2000
Application No. 08868409
Filed: June 3,1997
Attorney Docket No. 07429.00006

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 3,2008 ,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 3,2008 .
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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAILED

JAN 13 2003

Office of the Director
Group 3600

Fish & Richardson PC
225 Franklin St.
Boston, MA 02210

In re Application of
George A. Provost
Application No. 08/868,762
Filed: June 4, 1997
For: HOOK FOR HOOK AND LOOP FASTENERS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's communication filed on June 18, 2001 and supplemented on January 7, 2003, that will be treated as a petition to withdraw the holding of abandonment. The delay in treating this petition is sincerely regretted.

The petition is **GRANTED**.

A review of the file record indicates that a non-final rejection was mailed on January 9, 1998. A copy of a response to the above-noted Office action was submitted on June 18, 2001. Although no Notice of Abandonment has yet been mailed in this application, since no response was received until after the expiration of the six month period for response, the application is in fact abandoned. The copy of the response is being treated as a petition to withdraw the holding of abandonment.

Applicant's copy of the response includes a Certificate of Mailing bearing a mailing date of April 29, 1998. A statement by Toni M. Sousa was received within the petition, which attests to the personal knowledge under 37 CFR 1.8(b)(3) of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, and then to the Primary Examiner for prompt action on the merits of the application.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Steven Meyers at (703) 308-3868.

Donald T. Hajec, Director
Patent Technology Center 3600
Telephone No.: (703) 306-4180
Facsimile No.: (703) 306-4598

sm: 1/12/03
SM

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

PAULA D. MORRIS
THE MORRIS LAW FIRM, P.C.
10260 WESTHEIMER, SUITE 360
HOUSTON TX 77042-3110

COPY MAILED

JUL 1 3 2005

OFFICE OF PETITIONS

In re Application of	:
Chesser et al.	: Decision on Petition for
Application No. 08/869,109	: Patent Term Extension
Filed: June 4, 1997	:
CPA Filed: March 24, 1999	:
For: CONTROLED HYDRATION OF	:
STARCH IN HIGH DENSITY BRINE	:
DISPERSION	:

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 Determination of Patent Term Extension Pursuant to 37 CFR 1.701," which was received on September 9, 2004, requesting a patent term extension of 981 days. 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 1, 2003 in the above-identified application did not indicate a patent term extension. Petitioner requests 981 days of patent term extension from the period form May 12, 2000, the date that the Notice of Appeal was filed and ending on January 17, 2003, the date of the remand by the BAPI.

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.

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[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.

A Notice of Appeal was filed in the above-identified application on May 12, 2000. On January 17, 2003, a panel of the Board of Patent Appeals and Interferences (BPAI) remanded the application to the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a remand by a panel of the BPAI to the Examiner, the patent to issue from the application is entitled to an extension of the patent term.[2] The period of delay in the above-identified application is the period beginning on May 12, 2000, the date that the Notice of Appeal was filed and ending on January 17, 2003, 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 June 4, 2000. 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 earliest effective filing date of the application. As a result, the period of extension is 958 days, the period from June 4, 2000 to January 17, 2003 including the beginning and end dates.

After mailing of this decision, the above-identified application will be returned to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **958 days**.

The $200 fee for the petition charged to petitioner's Deposit Account (02-0429) has been refunded.

Telephone inquiries with regard to this communication should be directed to the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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[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).

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. 34

AGFA CORPORATION
LAW & PATENT DEPARTMENT
200 BALLARDVALE STREET
WILMINGTON MA 01887

COPY MAILED

SEP 1 2 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jeanne M. Lucivero et al :
Application No. 08/869,244 :
Filed: June 4, 1997 :
Attorney Docket No. XP-0658 :

This is a decision on the petition, filed September 10, 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 May 14, 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]

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.

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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.**

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2624 for processing of 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

cc:

JOHN A. MERECKI
HOFFMAN, WARNICK & D'ALESSANDRO LLC
THREE E-COMM SQUARE
ALBANY, NEW YORK 12207

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 7, 2006

TO SPE OF : ART UNIT 1637

SUBJECT : Request for Certificate of Correction for Appl. No.: 08/869275 patent No.: 7,081,226

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: _____

SPE 1637 **Art Unit**

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 11/30/02

TO : Supervisor, Art Unit 1742 #14 RUSH

SUBJECT: Certificate of Correction Request in Patent No. 5,916,389

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, should the patent read as shown in the certificate f correction? Check dependency

☐ 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

[signature]

Legal Insturment 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 By changing the claim 2 dependency from claim 1 to claim 18, it would change the scope of the invention, since claim 18 differs from claim 1. Moreover, proposed amendment would cause non-numeric order to occur

[signature] 1742

Supervisor Art Unit

PTOL-306 (REV. 10/87) U.S. DEPARTMENT OF COMMERCE Patent and Trademark C

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5857928	1999-01-12	08869505	1997-06-05	H310424USMF (1083-019)

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 M. Greenberg/	Date (YYYY-MM-DD)	2008-09-18
Name	Steven M. Greenberg	Registration Number	44725

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. 5857928
Issue Date: January 12,1999
Application No. 08869505
Filed: June 5,1997
Attorney Docket No. 6286-01

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 18,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 18,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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
AHB 08-01

Paper No. 21

CHRISTOPHER J. CHAN
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

COPY MAILED

AUG 7 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Brownell, et al. :
Application No. 08/869,872 : ON PETITION
Filed: June 2, 1997 :
Attorney Docket No.: 13237.1560 :

This is a decision on the petition under 37 CFR 1.137(b), filed on July 2, 2001, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTH** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The application became abandoned on December 26, 2000 for failure to submit a timely and proper reply to the final Office action mailed September 25, 2000. The final Office action set a three (3) month shortened statutory period for reply. No extensions of time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed May 21, 2001.

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. 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(c).

The present petition does not satisfy requirements (1) and (2) above.

As to item (1), the required reply to the outstanding Office action has not been submitted.

As to item (2), the required petition fee has not been submitted.

The change of address submitted with the instant petition has been entered and made of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By facsimile: (703) 308-6916

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policys

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMB 03-02

Paper No. 24

CHRISTOPHER J. CHAN
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

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OFFICE OF PETITIONS

In re Application of :
Brownell, et al. :
Application No. 08/869,872 : ON RENEWED PETITION
Filed: June 2, 1997 :
Attorney Docket No.: 13237.1560 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 12, 2001, to revive the above-identified application.

The application became abandoned on December 26, 2000 for failure to submit a timely and proper reply to the final Office action mailed September 25, 2000. The final Office action set a three (3) month shortened statutory period for reply. No extensions of time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed May 21, 2001. A petition under 37 CFR 1.137(b) was filed July 2, 2001 and dismissed August 7, 2001.

With the instant renewed petition, petitioner filed a Request for Continued Examination (RCE) under 37 CFR 1.114, along with the required submission and fee. The RCE has been accepted as the required reply under 37 CFR 1.137(b)(1).

Having met all requirements for a grantable petition under 37 CFR 1.137(b), the instant petition for revival is accordingly **GRANTED**.

The decision mailed August 7, 2001 set a two (2) month non-statutory period of time for reply making a response due on or before October 7, 2001. Thus, a three (3) month extension of time is required in connection with the submission of the instant renewed petition. Accordingly, as per the authorization contained in the renewed petition, a three (3) month extension of time in the amount of $920.00 has been charged to deposit account No. 13-2725.

The application file is being forwarded to Technology Center 2100 for consideration of the submission under 37 CFR 1.114.

There is no indication that petitioner herein was ever empowered

to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: KENNETH PALEY
MERCHANT & GOULD, P.C.
MINNEAPOLIS, MN 55402-0903

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United States Patent and Trademark Office
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MAY 0 8 2009

Timothy E. Torchia
AMYLIN PHARMACEUTICALS, INC.
9360 Towne Center Drive
San Diego, CA 92121

In re Application of:	:
Duft et al.	:
Serial No.: 08/870,762	: PETITION DECISION
Filed: June 6, 1997	:
Attorney Docket No.: **226/104US**	:

This is in response to the petition under 37 CFR § 1.181(a), filed April 13, 2009, requesting that at least one of the grounds of rejection designated as sections C, E, F, G, and H in the Examiner's Answer of October 29, 2008 be designated a new grounds of rejection.

BACKGROUND

Pertinent portions of the prosecution history are set forth herein.

On June 1, 2006, the examiner mailed to applicants a non-final Office action containing the following rejections:

48) Claims 1-7, 9-14, and 16 were rejected under 35 USC 102(a) as being anticipated by Kolterman et al. (WO 96/40220) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),

35) Claims 7, 13, 14, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 34 and 35 of US 5686411 (Gaeta et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract), and

36) Claims 7, 13, 14, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 13 of US 5321008 (Beumont et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract) and Rink et al. (US 5739106).

On December 1, 2006, applicants submitted an amendment containing arguments addressing the rejections noted above. Additionally, claims 1-7 and 9-16 were amended, and new claim 17 was added.

On April 23, 2007, the examiner mailed to applicants a non-final Office action containing the following grounds of rejections:

45) Claims 1-7, 9-14, 16, and 17 were rejected under 35 USC 102(a) as being anticipated by Kolterman et al. (WO 96/40220) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),

48) Claims 7, 14, and 16 were rejected under 35 USC 102(e)(2) as being anticipated by Beumont et al. (US 5321008) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),

46) Claims 7, 14, 16, and 17 were rejected under 35 USC 102(e)(2) as being anticipated by Gaeta et al. (US 5686411) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),

38) Claims 7, 14, 16, and 17 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 34 and 35 of US 5686411 (Gaeta et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract), and

39) Claims 7, 14, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 13 of US 5321008 (Beumont et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract) and Rink et al. (US 5739106).

On October 23, 2007, applicants submitted an amendment containing arguments addressing the rejections noted above.

On February 11, 2008, the examiner mailed to applicants a final Office action containing the following rejections:

33) Claims 1-7, 9-14, 16, and 17 were rejected under 35 USC 102(a) as being anticipated by Kolterman et al. (WO 96/40220) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),

34) Claims 7, 14, and 16 were rejected under 35 USC 102(e)(2) as being anticipated by Beumont et al. (US 5321008) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),

35) Claims 7, 14, 16, and 17 were rejected under 35 USC 102(e)(2) as being anticipated by Gaeta et al. (US 5686411) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),

26) Claims 7, 14, 16, and 17 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 34 and 35 of US 5686411 (Gaeta et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract), and

27) Claims 7, 14, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 13 of US 5321008 (Beumont et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract) and Rink et al. (US 5739106).

On April 11, 2008, applicants submitted an after final amendment containing arguments addressing the rejections noted above.

On April 30, 2008, the examiner mailed to applicants an advisory action containing the following rejections:

15) Claims 1-7, 9-14, 16, and 17 were rejected under 35 USC 102(a) as being anticipated by Kolterman et al. (WO 96/40220) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),
16) Claims 7, 14, and 16 were rejected under 35 USC 102(e)(2) as being anticipated by Beumont et al. (US 5321008) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),
17) Claims 7, 14, 16, and 17 were rejected under 35 USC 102(e)(2) as being anticipated by Gaeta et al. (US 5686411) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),
11) Claims 7, 14, 16, and 17 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 34 and 35 of US 5686411 (Gaeta et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract), and
12) Claims 7, 14, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 13 of US 5321008 (Beumont et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract).

On August 7, 2008, applicants submitted an appeal brief containing arguments addressing the rejections noted above.

On October 29, 2008, the examiner mailed to appellants an examiner's answer containing the following rejections:

C) Claims 1-7, 9-14, 16, and 17 were rejected under 35 USC 102(a) as being anticipated by Kolterman et al. (WO 96/40220) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),
E) Claims 7, 14, and 16 were rejected under 35 USC 102(e)(2) as being anticipated by Beumont et al. (US 5321008) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),
F) Claims 7, 14, 16, and 17 were rejected under 35 USC 102(e)(2) as being anticipated by Gaeta et al. (US 5686411) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract),
G) Claims 7, 14, 16, and 17 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 34 and 35 of US 5686411 (Gaeta et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract), and
H) Claims 7, 14, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 13 of

US 5321008 (Beumont et al.) as evidenced by Tsanev (Vutr. Boles 23:12-17, 1984, abstract).

On December 11, 2008, appellants submitted a reply brief containing arguments addressing the rejections noted above.

On December 17, 2008, the examiner mailed to appellants a communication indicating that the reply brief had been entered and the contents noted. The application was forwarded to the Board of Appeals and Interferences.

On January 7, 2009, the application was returned to the examiner by the Board of Appeals and Interferences. This communication stated that the examiner relied on a foreign reference, Tsanev (Vutr. Boles 23:12-17, 1994, abstract). The Board required the examiner, *inter alia*, to obtain a full certified English translation of the Tsanev reference and provide a copy to appellants.

On February 12, 2009, the examiner mailed to appellants a communication containing a full certified English translation of the Tsanev reference as ordered by the Board.

On April 13, appellants submitted the instant petition, requesting that those rejections relying upon Tsanev as evidence be designated new grounds of rejection in view of the new, full certified English translation of the Tsanev reference.

DISCUSSION

The petition and the file history have been carefully considered.

In the petition, applicants argue that the full certified English translation of the Tsanev reference (referred to in the petition as the "Scientific Paper") is dissimilar to the abstract used in the rejections by the examiner. Appellants urge that the different quotation and new, detailed disclosure in the Scientific Paper provides new matter and a new basis for the rejections. As examples, appellants point to the term "age type diabetes" found in the abstract but not in the Scientific Paper, and the term "overweight" in the abstract being different from "above-normal weight" in the Scientific Paper. Appellants urge that the Scientific Paper provides new facts, matters, and issues not found in the abstract and thus provides a different basis and grounds for the rejections at issue in this petition. Appellants also urge that, since the Scientific Paper was entered after appellant's reply brief, appellants have not been provided with a fair opportunity for consideration and/or response to the teachings of this reference.

MPEP § 706.02(II) states:

> Prior art uncovered in searching the claimed subject matter of a patent application often includes English language abstracts of underlying documents, such as technical literature or foreign patent documents which may not be in the English language. When an abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document.

In the instant case, the examiner has consistently relied upon the abstract, which abstract is only relied upon as evidence of inherency, and not the Scientific Paper. Therefore, the examiner's answer does not contain new grounds of rejection based on the Scientific Paper.

DECISION

The petition is subsequently **DENIED**.

However, a revised Examiner's Answer will be forthcoming that clearly relies only on the abstract.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

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 sent to the general Office facsimile number, 703-872-9306.

John LeGuyader
Director, Technology Center 1600

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Paper No. 13

Thomas J Perkowski
Soundview Plaza
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Stamford, Connecticut 06902

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FEB 05 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Thomas Perkowski
Application No.08/871,815
Filed: June 9, 1997
Attorney Docket No. 100006

This is a decision on the petition under 37 CFR §1.137, filed July 10, 2002. This petition is being treated under 37 CFR §1.181(no fee) as a petition to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due, and submit corrected drawings, as required by the Notice of Allowability both of which were mailed May 26, 1999. The Notice of Allowance and Issue Fee Due set a three (3) month statutory period for reply. The Notice of Allowability set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). A Notice of Abandonment was mailed on November 3, 1999.

Petitioner maintains a Continued Prosecution Application (CPA) was filed on August 26, 1999. In support petitioner provided a copy of an Office stamped postcard receipt which acknowledges the receipt of a transmittal letter accompanying the filing of a continuation application under 37 CFR 1.53(d), supplemental information disclosure statement and a certificate of express mail (EL364975051US). A review of the record shows deposit account 16-1340 was charged the CPA filing fee on September 1, 1999 (mailroom date August 26, 1999). A search of the express mail database reveals package EL364975051US was accepted by the U.S. Post Office on August 26, 1999. Based on the facts stated in the instant petition, and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

Since the record does not contain a copy of the documents submitted on August 26, 1999, the copies provided with the instant petition will be used for examination purposes.

The change of correspondence address submitted with the status inquiry on June 5, 2002 has been entered.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Since the petition has been granted under 37 CFR §1.181, the Petitioner's request to have the petition considered under 37 CFR §1.137 is dismissed as moot.

The application is abandoned in favor of the Continued Prosecution Application (CPA) filed August 26, 1999.

This application is being forwarded to Technology Center 2700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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THOMAS J. PERKOWSKI, Esq., P.C.
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OFFICE OF PETITIONS

In re Application of	:
Perkowski	:
Application No. 08/871,815	: DECISION ON PETITION
Filed: June 9, 1997	: UNDER 37 CFR 1.181
Attorney Docket No. 100-006USA000	:

This is a decision on the petition under 37 CFR 1.181, filed September 21, 2006 (certificate of mailing date September 18, 2006), to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicant's alleged failure to file corrected formal drawings within three months of the mail date of the September 16, 2005 Notice of Allowability. The Office contended that this application became abandoned on December 17, 2005. A Notice of Abandonment was mailed on August 29, 2006.

Petitioner asserts that a reply was timely filed on certificate of mailing date December 16, 2005 and received in the Office on December 21, 2005. In support of this assertion, petitioner has provided a copy of applicant' response that contains a proper certificate of mailing bearing a December 16, 2005 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The "Submission of Formal Drawings" bears a proper certificate of mailing, dated December 16, 2005, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the individual signing the certificate, Thomas J. Perkowski, had reasonable basis to expect that the correspondence would be mailed on December 16, 2005.

In addition, petitioner has submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing December 21, 2005 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a 16 sheets of formal drawings. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on December 21, 2005. MPEP 503.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the August 29, 2006 Notice of Abandonment is vacated.

After the mailing of this decision, the application file will be returned to Publications Division for consideration of the drawings, filed on certificate of mailing date December 16, 2005 and resubmitted with the present petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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In re Application of	:	
Jeffrey et al.	:	DECISION ON PETITION
Application Number: 08/872,078	:	
Filing Date: 06/10/1997	:	
Attorney Docket Number: P/54265	:	
	:	

This is a decision in reference to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181," filed on October 3, 2008.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on August 13, 2001, which set a two (2) month shortened period for reply. On May 6, 2002, Notice of Abandonment was mailed.

Petitioner asserts that the Notice of Allowance and Issue Fee Due was never received. Specifically, petitioner asserts that both the Notice of Allowance and Issue Fee Due and the Notice of Allowance were both mailed to an incorrect address.

A review of the record reveals the following:

1. On June 10, 1997, the application was filed as a File Wrapper Continuation Under Rule 1.62 of prior-filed application No. 08/400,140, filed on March 6, 1995. The correspondence address listed in the transmittal letter is:

> Kirschstein, Ottinger, Israel & Schiffmiller, P.C.
> 551 Fifth Avenue
> New York NY 10176-0024

2. On August 13, 2001, the Notice of Allowance and Issue Fee Due was mailed to:

James Dean Johnson
Jones 6 Askew
191 Peachtree Street, NE
37th Floor
Atlanta GA 30303-1769

3. On May 6, 2002, the Notice of Abandonment was mailed to:

John S. Pratt, Esq.
Kilpatrick Stockton, LLP
1100 Peachtree Street
Suite 2800
Atlanta GA 30309

4. On August 7, 2008, a change of correspondence address was filed.

5. On October 3, 2008, the subject petition was filed.

It is noted that the file wrapper for the subject application lists the address to which the Notice of Allowance and Issue Fee Due was mailed as the correspondence address.

The petition must be dismissed at this time because the extended period between the filing of the application on June 10, 1997, the mailing of the Notice to Allowance and Issue Fee Due mailed on August 13, 2001, the Notice of Abandonment mailed On May 6, 2002, and the filing of the subject petition on October 3, 2008, obligates the Office to inquire into the reasons for the delay.

MPEP 203.08, states, in pertinent part that in the event that a six month period has elapsed, and no response from the Office is received, applicant should inquire as to the status of the application to avoid potential abandonment. A stamped postcard receipt for replies to Office actions, adequately and specifically identifying the papers filed, will be considered prima facie proof of receipt of such papers. See MPEP § 503. Where such proof indicates the timely filing of a reply, the submission of a copy of the postcard with a copy of the reply will ordinarily obviate the need for a petition to revive. Proof of receipt of a timely reply to a final action will obviate the need for a petition to revive only if the reply was in compliance with 37 CPR 1.113.

Accordingly, the Office is requesting additional information regarding the delay between the filing of the subject application on June 10, 1997, the mailing of the Notice of Allowance and

Issue Fee Due mailed on August 13, 2001, the mailing of the Notice of Abandonment on May 6, 2002, and the filing of the subject petition on October 3, 2008. Any renewed petition must be accompanied by affidavits or declarations of facts by all persons having first-hand knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. Petitioner may also wish to submit any docket reports or other contemporaneous documentation which would establish a showing of diligence throughout the period described above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This period may not be extended.**[1]

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 2231a

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Conferee: Anthony Knight, Supervisor

---

[1] 37 CFR 1.181(f).

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NEW YORK NY 10016-2223

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FEB 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey et al.	:	DECISION ON PETITION
Application Number: 08/872,078	:	
Filing Date: 06/10/1997	:	
Attorney Docket Number: P/54265	:	
	:	

This is a decision in reference to the "RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181," filed on January 26, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Issue Fee Due mailed on August 13, 2001, which set a two (2) month shortened period for reply. On May 6, 2002, Notice of Abandonment was mailed. The petition filed on October 3, 2008, was dismissed on November 25, 2008.

The subject renewed petition was filed on January 26, 2009.

Petitioners again assert that the Notice of Allowance and Issue Fee Due was never received. Specifically, petitioner asserts that both the Notice of Allowance and Issue Fee Due and the Notice of Allowance were both mailed to an incorrect address.

Upon review, the showing of record is that, since the Notice of Allowance and Issue Fee Due was never received, there is no abandonment in fact. Further, in view of the showing that the Notice of Abandonment was never received, and the showing of diligent efforts by petitioners, the delay in filing the initial petition is excused.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is being referred to the Technology Center technical support staff for remailing of the Notice of Allowance and Fee(s) Due mailed on August 13, 2001. The period for reply will be reset from the mailing date thereof.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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In re Patent No. 5860036
Issue Date: January 12,1999
Application No. 08872408
Filed: June 10,1997
Attorney Docket No. 75972RLO

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed May 29,2007 ,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 29,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5860036	1999-01-12	08872408	1997-06-10	75972RLO

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	/Raymond L. Owens/	Date (YYYY-MM-DD)	2007-05-29
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
WASHINGTON, D.C. 20231
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Paper No. 16

FRANCIS E. MORRIS
PENNIE & EDMONDS LLP
3300 Hillview Avenue
Palo Alto, California 94304

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MAY 15 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:	
Cummings	:	
Application No. 08/872974	:	ON PETITION
Filed: June 10, 1997	:	
Attorney Docket No. 9824-013-999	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 2, 2001, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed February 16, 1999. Accordingly, this application became abandoned on May 17, 1999. A Notice of Abandonment was mailed on December 2, 1999.

The file is being forwarded to Technology Center 2600.

Telephone inquiries concerning this matter may be directed to Lesley D. Morris at (703) 306-0028.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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JUN 14 2002

Vidas, Arrett & Steinkraus
6109 Blue Circle Dr., Suite 2000
Minnetonka MN 55343-9131

Paper No. 12

In re Application of Adrian C. Ravenscroft Serial No. : 08/873,484 Filed : January 12, 1997 For : Stent Delivery System	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT :

This is a decision on petitioner's request filed July 16, 2001, to review the holding of abandonment mailed January 19, 1999, for failure to respond to the Office action mailed June 11, 1998. The basis for the request is that applicant did not receive the Office action mailed June 11, 1998. There is no fee required for this petition.

It is first noted that the petition received July 16, 2001 came in as an attachment to a status letter filed on the same date and is a copy of a petition filed January 10, 2001. The status letter included a PTO stamped receipt indicating receipt of the petition on January 10, 2001. It is further noted that the instant petition is the second such petition. The first petition filed February 18, 1999 was denied in a decision mailed March 22, 1999. The decision indicated that the Office action of June 11, 1999, had been mailed to the correct address of record at the time. The decision also indicated that if the original addressee never received the Office action, then a proper showing by that party would be needed to overcome the presumption of delivery.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed July 16, 2001 does not include items (2) and (3) listed above. Petitioner has submitted only a declaration from an employee of the law firm originally holding the power of attorney for the instant application attesting to the fact that the Office action in question was not received. As the request does not include items (1) and (2), the request to withdraw the holding of abandonment is **denied**.

Upon the mailing of this decision, the instant application will be forwarded to the Office of Petitions for consideration of the alternative petition under 37 CFR 137(b) filed with the instant petition.

Summary: Petition to Withdraw the Holding of Abandonment Denied.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

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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VIDAS ARRETT & STEINKRAUS PA
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

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AUG 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Adrian C. Ravenscroft	:	
Application No. 08/873,484	:	ON PETITION
Filed: June 12, 1997	:	
Title: Stent Delivery System	:	

This is a decision on the petition to revive an abandoned application under 37 CFR 1.137(b), filed June 21, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed June 11, 1998, which set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, no reply having received, the application became abandoned on September 12, 1998. A Notice of Abandonment was mailed on July 19, 1999.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of an Amendment, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 3731 for consideration of the Amendment filed June 21, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

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OFFICE OF PETITIONS

In re Application of
Jon Faiz Kayyem, et al.
Application No. 08/873,597
Filed: June 12, 1997
Attorney Docket No. 067456-5005US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected formal drawings on or before July 4, 2007, as required by the Notice to File Corrected Application Papers (Notice), mailed May 4, 2007. Accordingly, the date of abandonment of this application is July 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form corrected formal drawings, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

The drawings have been approved by the USPTO draftsperson.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

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WASHINGTON, DC 20231
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Technology Center 2100

In re Application of	:	**NOTICE OF WITHDRAWAL**
Michael C. Scroggie, et al	:	**FROM ISSUE**
Application No. 08/873,974	:	**UNDER 37 CFR 1.313(b)**
Filed: June 12, 1997	:	

The above-identified application is withdrawn from issue after payment of the issue fee **due to unpatenatability of one or more claims. See 37 CFR 1.313(b)(3).**

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of this application.

Telephone inquiries should be directed to John J. Love, Director, Technology Center 2100 at 703 306-5484.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John J. Love, Director
Technology Center 2100
703 306-5484

Oblon, Spivak, McClelland,
Maier and Neustadt, PC
Crystal Square Five, 4th Floor
1755 Jefferson Davis Highway
Arlington, VA 22202

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Paper No. 44

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ALBRITTON & HERBERT
FOUR EMBARCADERO CENTER
SUITE 3400
SAN FRANCISCO CA 94111-4187

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JUL 0 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Jon F. Kayyem et al	:
Application No. 08/873,978	:
Filed: June 12, 1997	:
Attorney Docket No. A-63761-1/RF	:

This is a decision on the petition under 37 CFR 1.182, filed June 2, 2003.

The petition is **DISMISSED AS MOOT** because a petition requesting that the priority claim be amended is unnecessary for applications filed prior to November 29, 2000.

In view of the above, the $130 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Karen Creasy at (703)305-8859. 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 AU 1631 for the examiner to consider the amendment filed September 26, 2003 in response to the Office letter mailed June 23, 2003.

Karen Creasy

Karen Creasy
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
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In re Patent No. 5820801
Issue Date: October 13,1998
Application No. 08874087
Filed: June 12,1997
Attorney Docket No. 2872L000214C

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed July 24,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5820801	1998-10-13	08874087	1997-06-12	CSP-13302/38

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Avery N. Goldstein/	Date (YYYY-MM-DD)	2007-07-24
Name	Avery N. Goldstein	Registration Number	39204

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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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 OF PATENTS

December 27, 2004

Robert W. Becker
Robert W. Becker & Associates
707 Highway 66 East, Suite B
Tijeras, NM 87059

In re Application of:
Jack R. Cooper, et al
Serial No: 08/875,286
Filing Date: June 5, 2001
For: ENERGY ATTENUATION DEVICE FOR A FLUID-CONVEYING LINE AND METHOD OF ATTENUATING ENERGY IN SUCH A LINE

In response to the petition received by fax on March 25, 2004, to withdraw the holding of abandonment in the above application.

The petition is Granted

The above-identified application became abandoned for failure to reply with the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed August 8, 2001. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned October 10, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts of Nonprovisional Application mailed August 8, 2001.

The office regrets any inconvenience this may have caused the client.

The application will be completed with the documents received on March 25, 2004 for release to Technology Center 3752.

Telephone inquiries concerning this application may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination

Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Mailed: APR 11 2000

JWM
Paper Number 27

In re application of Kaj Henricson et al Serial No. 08/875,424 Filed: July 28, 1997 For: METHOD OF PRETREATING PULP TO BE BLEACHED WITH PEROXIDE	:	DECISION ON PETITION

This is a decision on the PETITION FOR REVIEW OF THE PROPRIETY OF THE ISSUING OF THE SECOND NOTICE OF NON-COMPLIANCE, filed December 10, 1999. The petition requests withdrawal of the examiner's Notification of Non-Compliance with the Requirements of 37 C.F.R. 1.192(c) of November 15, 1999 in which it was held that the APPEAL BRIEF, filed August 23, 1999, was not in compliance with 37 C.F.R. 1.192(c) since the claims, which are grouped separately, are not separately argued.

DECISION

A review of the application record indicates that the examiner mailed, on February 15, 2000, a Letter stating that the REVISED APPEAL BRIEF of December 10, 1999 is acceptable under 37 C.F.R. 1.192(c) for examination purposes. In light of this action, the instant petition has been rendered moot.

With the mailing of the Examiner's Answer on March 2, 2000, the application awaits the applicants' reply, pursuant to 37 C.F.R. 1.193.

The Petitions are **DISMISSED**.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Nixon & Vanderhye
1100 North Glebe Road
8th Floor
Arlington, VA 22201

UNITED STATES PATENT AND TRADEMARK OFFICE

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Noted.

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OFFICE OF PETITIONS

AJAY PATHAK ESQ
BANNER & WITCOFF LTD
1001 G ST NW
WASHINGTON DC 20001

In re Application of Peter Vinz Application No. 08/875,916 Filed: October 31, 1997 Attorney Docket No. 006105.00001	DECISION ON PETITION

This is a decision on the petition filed on September 17, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed December 28, 2000. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a Continued Prosecution Application (CPA) on April 25, 2001. However, because applicant did not purchase the necessary one month extension of time to make the CPA timely, **the CPA should not have been entered**. Accordingly, the above-identified application became abandoned on March 29, 2001.

However, in spite of the abandonment of the above-identified application, the CPA was entered and prosecution of the application continued, including the mailing from this Office of a non-final Office action on June 29, 2001, and a Notice of Non-Compliant Amendment on January 2, 2002.

The Office actions mailed June 29, 2001 and January 2, 2002 are hereby **VACATED**.

With the instant petition, petitioner has filed a CPA under 37 CFR 1.53(d), in response to the final Office action of December 28, 2000. In addition, petitioner has met all other requirements for a grantable petition under 37 CFR 1.137(b). Petitioner paid the petition fee and made the proper statement of unintentional delay under 37 CFR 1.137(b)(3).

The Power of Attorney filed May 1, 2002 has been entered. Future correspondence concerning this application will be forwarded to the above address of record.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for

reply to avoid abandonment. Accordingly, since the $55 extension of time fee submitted with the petition on September 17, 2002 was subsequent to the maximum period obtainable for reply (June 28, 2001), this fee has been refunded to Deposit Account No. 19-0733.

The application file is being forwarded to Technology Center 1700 for processing of the CPA, filed September 17, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703)305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr.:01-02

Paper 15

GENENCOR INTERNATIONAL, INC.
925 PAGE MILL ROAD
PALO ALTO, CA 94304-1013

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Fowler, et al.
Application No. 08/876,132
Filed: 23 June, 1997
Attorney Docket No.: GC372

This is a decision on the petition filed on 11 October, 2001, under 37 C.F.R. §1.181[1] seeking the withdrawal of the holding of abandonment, but not sufficiently and appropriately supplemented until 10 January, 2002, to revive an application abandoned due to unintentional delay 37 C.F.R. §1.137(b)[2].

---

[1] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:

§1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declaration (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed. * * *

(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * *

[2] The regulations at 37 C.F.R. §1.137 provide in pertinent part:

§ 1.137 Revival of abandoned application, terminated reexamination proceeding, or lapsed patent.

* * *

(b) *Unintentional.* If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in § 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

(c) *Reply.* In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

* * *

[47 Fed. Reg. 41277, Sept. 17, 1982, effective Oct. 1, 1982; para. (b) 48 Fed. Reg. 2713, Jan. 20, 1983, effective Feb. 27, 1983; paras. (a) - (c), paras. (d) & (e) added, 58 Fed. Reg. 44277, Aug. 20,1993, effective Sept. 20, 1993; para. (c) revised, 60 Fed. Reg. 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (c) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Sept. 8, 2000; revised, 65 Fed. Reg. 57024, Sept. 20, 2000, effective Nov. 29, 2000]

The petition under 37 C.F.R. §1.181 is **DISMISSED** for reasons as set forth below,[3] and the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

A review of the record reveals:

- the instant application was filed on 23 June, 1997;
- the Petitioner failed to respond to a Notice of Missing Parts[4] mailed on 5 September, 1997 (to the specified correspondence address of record: 180 Kimbal Way, South San Francisco, CA 94080),[5] with a response due date on or before 5 November, 1997;
- the instant application went abandoned after midnight on 5 November, 1997;
- a Status Inquiry was filed on 2 February, 1998;
- a Power to Inspect and Make Copies was filed on 22 May, 1998;
- after abandonment, Petitioner filed on 27 August, 1998:

  --the oath/declaration signed by all named inventors,

  --an information disclosure statement,

  --a copy of the Notice of Missing Parts,

  --paper and computer-readable copy of the sequence listing (with Statement of Sameness), and

  --a Preliminary Amendment,

  --a Notice of Change of Address (to the Page Mill Road address),

  --a Request for a Corrected Filing Receipt,

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[3] Pursuant to Petitioner's authorization to charge/credit Deposit Account 01-1047 (GC372):

- the petition fee under 37 C.F.R. §1.137(b) of $1,280.00 previously has been charged;
- the extension of time fee ($1,440.00), previously improperly charged, has been credited;
- the late-filing surcharge ($130.00), never previously charged, now has been charged; and
- the petition fee ($130.00) under 37 C.F.R. §1.181 for the improper petition is charged.

[4] The Notice of Missing Parts required the filing of an oath or declaration executed by all named inventors and the payment of the late-filing surcharge.

[5] While the application also contains another address for then-Counsel Debra Glaister (925 Page Mill Road, Palo Alto, CA 94304-1013), the specified correspondence address as filed is the Kimbal Way address.

--a Petition to Withdraw the Holding of Abandonment, and

--authorization to charge (or credit) Deposit Account 07-1048 (Docket No. GC372) for appropriate fees (refund);

- the 27 August, 1998, petition, was not treated at that time (although inappropriate, it should have been dismissed, but was not);
- the Notice of Abandonment was mailed on 18 November, 1998;
- on 5 April, 1999, Petitioner again advanced the petition to Withdraw the Holding of Abandonment;
- the 5 April, 1999, petition--again inappropriate--was not treated and dismissed;
- on 11 October, 2001, Petitioner once again advanced the petition to Withdraw the Holding of Abandonment;
- during a telephone conference with the Office of Petitions, Petitioner was directed to:

  --the data submitted by Petitioner in the application specifying the Kimbal Way correspondence address as having triggered the abandonment, and

  --the inappropriateness of a Withdrawal of the Holding of Abandonment in the premises;
- on 10 January, 2002, Petitioner filed the Petition to Revive under 37 C.F.R. §1.137(b) and authorization for applicable fees to be charged to Deposit Account 07-1048 (Docket No. GC372).[6]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[7] And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably[8] or unintentionally,

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[6] Petitioner also has requested and authorized fees for extensions of time. These are unnecessary.

[7] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[8] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay,

respectively, abandoned application under this congressional grant of authority. Further, Petitioner must evidence at least such diligence in addressing a question of abandonment as one must evidence in the prosecution of the application--i.e., such diligence as one would give to one's most important business affairs.[9]

Moreover, the courts have determined the construct for properly supporting an allegation of non-receipt of an Office action in seeking withdrawal of a holding of abandonment.[10]

Petitioner's Argument as to Withdrawal of the Holding of Abandonment

Petitioner has argued that the Office erred in holding abandoned the instant application.

As is clear from the Record, the Office mailed a Notice of Missing Parts to the specified Kimbal Way correspondence address.

Thus, Petitioner either failed to:

- correct the address before the filing of the application, or
- timely file a Notice of Change of Address upon that event.[11]

Therefore, while Petitioner's contention may be interesting, it is wholly unpersuasive because it has no basis in law.

To the contrary, as noted earlier the statutory provisions at 35 U.S.C. §133 (1994) mandate abandonment in the absence of proper timely reply to an Office action or

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and also, by definition, are not intentional. Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[9] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887). See also: In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). Decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition cannot be granted where a petitioner has failed to meet his or her burden of proof. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

[11] As noted above, the Notice of Change of Address was not filed until 27 August, 1998--almost a year after the mailing of the Notice of Missing Parts and nine (9) months after the due date therefor.

Notice. And the regulations at 37 C.F.R. §1.134[12] and §1.135[13] provide similar requirements and effects.

As is clear, Petitioner fails to satisfy the burdens set forth in Delgar v. Schulyer.

Withdrawal of the holding of abandonment is not proper, and no term adjustment will be proper because Petitioner failed to file a grantable petition from abandonment in November 1997 until January 2002.

Alternative Venue

Petitioner has satisfied the requirements for revival under 37 C.F.R. under 37 C.F.R. §1.137(b).[14]

Therefore, for the reasons stated above the petition under 37 C.F.R. §1.181 is **dismissed**, and the petition under 37 C.F.R. §1.137(b) is **granted**.

The record (including the petitions filed on 27 August, 1998, 5 April, 1999, 11 October, 2001, and 10 January, 2002) does not necessitate a finding that the delay between midnight 5 September, 1997, and 10 January, 2002, was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on Petitioner's duty of candor and good faith when accepting Petitioner's representation that the delay in filing the response was unintentional.[15]

This application is being forwarded to OIPE for the issuance of a corrected filing receipt specifying Genencor International, Inc., as the correct addressee for mailings before the application is assigned to a Technology Center for processing in due course.

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[12] The regulations at 37 C.F.R. §1.134 provide:
§ 1.134 Time period for reply to an Office action.
An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.
[47 Fed. Reg. 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[13] The regulations at 37 C.F.R. §1.135 provide:
§ 1.135 Abandonment for failure to reply within time period.
(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a *bona fide* attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.
[Paras. (a), (b), and (c), 47 Fed. Reg. 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 Fed. Reg. 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

[14] See: Fn. 2.

[15] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

Telephone inquiries should be directed to John J. Gillon, Jr., Attorney, Office of Petitions, at (703) 305-9199.

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OFFICE OF PETITIONS

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Issue Date: 05/11/1999	:	
Application Number: 08/876472	:	
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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) 272-3231.

D Wood

Douglas I. Wood
Attorney
Office of Petitions