UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6018833
Issue Date: February 1,2000
Application No. 09151241
Filed: September 14,1998
Attorney Docket No. IMM

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

This is a decision on the electronic petition, filed June 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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)
6018833	2000-02-01	09151241	1998-09-14	imm

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/dennis m. imm/	Date (YYYY-MM-DD)	2008-05-28
Name	Dennis M. Imm		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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www.uspto.gov

IMMUNEX CORPORATION
LAW DEPARTMENT
1201 AMGEN COURT WEST
SEATTLE WA 98119

COPY MAILED

MAY 2 5 2006

OFFICE OF PETITIONS

In re Application of	:
Goodwin et al.	:
Application No. 09/151,259	: Decision on Petition for
Filed: September 10, 1998	: Patent Term Extension
Attorney Docket No. 2801-E	:
For: ANTIBODIES TO HUMAN 4-1BB	:
	:

The above-identified application has been forwarded to the undersigned for consideration on the "Petition under 37 CFR 1.181," which was received on January 17, 2006, for the above-identified application. Petitioner argues that the patent should have an extension of 1,196 days due to delays in the Office for suspensions for a potential interference. See 35 U.S.C. § 154(b) and 37 C.F.R. § 1.701. Further requests or a request for reconsideration of this decision for patent term extension, must be filed under 37 CFR 1.182 or 37 CFR 1.183, and include the required fee.

The petition is dismissed.

Petitioner notes that the above-identified application was filed on September 10, 1998, allowed on October 17, 2005, but was delayed due to suspensions in prosecution for a potential interference. Petitioner states that the application was suspended for a potential interference from July 9, 2002 through October 17, 2005, therefore the patent should be extended by 1,196 days for the period of suspension. Petitioner argues that under 37 CFR 1.701(c)(1)(ii), the patent term should be extended the number of days in the period beginning on the date prosecution in the application was suspended by the PTO due to interference proceedings and ending on the date of the termination of the suspension. Petitioner argues that applicant is entitled to 1,196 days of patent term extension, not the 0 days of extension as stated in the Notice of Allowance.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000. The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Petitioner argues that under 37 CFR 1.701(c)(1)(ii), the patent term should be extended the number of days in the period beginning on the date prosecution in the application was suspended by the PTO due to interference proceedings and ending on the date of the termination of the suspension. While prosecution in the application was suspended, the suspension was due to a potential interference with applicant's application and another patent or application, not to await the result of interference in another application. As a result, the provisions of 37 CFR 1.701(a)(1) and (c)(1)(ii) do not apply. The provisions of 37 CFR 1.701(c)(1)(ii) apply to suspensions by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) and in this instance there were no interference proceedings. Both the statute and the rule require there to be "a proceeding under section 135(a)." Petitioner's argument that he is entitled to patent term extension for the period of suspension under 37 CFR 1.701(a)(1) is not persuasive.

The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154. The delay in issuance of petitioner's application is regretted.

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 zero **(0) days.**

Petitioner's deposit account has not been charged a petition fee.

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,346,311	2002-02-12	09151389	1998-09-10	FO-004_R

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

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

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

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
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SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

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

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

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

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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

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	/Timothy Kelly/	Date (YYYY-MM-DD)	2010-05-03
Name	Timothy Kelly		
Enter Reel and Frame Number		Remove	
Reel Number	016810	Frame Number	0621
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 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. 6346311
Issue Date: February 12,2002
Application No. 09151389
Filed: September 10,1998
Attorney Docket No. FO-004_R

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

This is a decision on the electronic petition, filed May 3,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 3,2010 .
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.

28 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Nixon & Vanderhye P.C.
1100 North Glebe Road, 8th Floor
Arlington, VA 22201

In re Application of	:	
Campbell et al.	:	
Application No. 09/152,266	:	DECISION ON
Filing Date: 14 September 1998	:	
Atty. Docket No.: 540-127	:	PETITION UNDER
For: Integrated Circuits For Multi-	:	
Tasking Support In Single Or	:	37 CFR 1.137(b)
Multiple Processor Networks	:	

This is in response to the petition under 37 CFR 1.137(b) filed on 14 September 1998.

BACKGROUND

International application PCT/GB96/03125 was filed on 18 December 1996, and claimed an earliest priority date of 20 December 1995. The United States was designated. The International Bureau transmitted a copy of the published international application to the USPTO on 26 June 1997. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month period for paying the basic national fee in the United States expired as of midnight on 20 June 1998. The international application became abandoned with respect to the United States as of that time for failure to timely pay the basic national fee.

On 14 September 1998, applicant filed this United States application, number 09/152,266, under 35 U.S.C. 111. Concurrently, applicant filed the instant petition requesting revival of the international application with respect to the United States for purposes of establishing copendency of this United States application with the international application.

DISCUSSION

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; (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 (c) of this section.

Requirement (1) for the required reply is considered satisfied by the filing of application number 09/152,266.

Requirement (2) has been satisfied by the payment of the required petition fee.

Regarding requirement (3), applicants' statement that "the above-identified National Phase of PCT/GB96/03125 was abandoned by virtue of unintentional delay in timely filing a Continuation from the PCT parent application" is being construed as 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." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Thus, the statement in the petition is being accepted in satisfaction of 37 CFR 1.137(b)(3).

Concerning requirement (4), no terminal disclaimer is required in this case, since the international filing date of PCT/US97/24166 was later than 8 June 1995.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for purposes of establishing co-pendency between United States application number 09/152,266 and international application number PCT/GB96/03125. As co-pendency has been established, the international application is once again abandoned with respect to the United States.

This application is being returned to Technology Center 2100 for further proceedings.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES 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: 04/24/08

Patent No. : 6175991 B1
Ser. No. : 09/152,306
Inventor(s) : DRIESMAN, DAVID E.
Issued : 01/23/01
Title : **ARTICULATED DOOR HINGE FOR AN AUTOMOTIVE VEHICLE**
Docket No. : **198-0125**

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

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

FORD GLOBAL TECHNOLOGIES, LLC
FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN MI 48126

LMN

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0015
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6253998	2001-07-01	09152377	1998-09-14	12570.1US01

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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

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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

PTO/SB/68 (03-03)
Approved for use through 03/31/2012. OMB 0651-0018
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays 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	John R. Goedel	Date (YYYY-MM-DD)	2009-09-18
Name	John R. Goedel		

Enter Reel and Frame Number — Remove

Reel Number	000976	Frame Number	0475

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.**

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. 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: John R. Goedel

Application No./Patent No.: 6253698 Filed/Issue Date: issued July 3, 2001

Titled:
PHOSPHORESCENT MARINE PRODUCTS

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

states that it is:

1. [X] the assignee of the entire right, title, and interest in;

2. [ ] an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. [ ] the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made) 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 therefore 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 follows:

1. From: John R. Goedel To: MarineGlo Corp.
The document was recorded in the United States Patent and Trademark Office at
Reel 009576, Frame 0475, or for which a copy thereof is attached.

2. From: MarineGlo Corp. To: GloTek
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(s).

[ ] 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.

John R. Goedel
Signature

09/18/2009
Date

John R. Goedel
Printed or Typed Name

President, GloTek
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.

10f-586

DC-CN

MINNESOTA SECRETARY OF STATE

AMENDMENT OF ARTICLES OF INCORPORATION

READ INSTRUCTIONS LISTED BELOW, BEFORE COMPLETING THIS FORM.

1. **Type or print in black ink.**
2. **There is a $35.00 fee** payable to the Secretary of State for filing this "Amendment of Articles of Incorporation".
3. Return Completed Amendment Form and Fee to the address listed on the bottom of the form.

CORPORATE NAME: (List the name of the company prior to any desired name change)

Marine Glo Corporation

This amendment is effective on the day it is filed with the Secretary of State, unless you indicate another date, no later than 30 days after filing with the Secretary of State. 2/14/03

The following amendment(s) to articles regulating the above corporation were adopted: (Insert full text of newly amended article(s) indicating which article(s) is (are) being amended or added.) If the full text of the amendment will not fit in the space provided, attach additional numbered pages. (Total number of pages including this form____.)

ARTICLE 1

The new name of the Corporation is:

GloTek Corporation

This amendment has been approved pursuant to *Minnesota Statutes chapter 302A or 317A*. I certify that I am authorized to execute this amendment and I further certify that I understand that by signing this amendment, I am subject to the penalties of perjury as set forth in section 609.48 as if I had signed this amendment under oath.

(Signature of Authorized Person)

Name and telephone number of contact person: John R. Goedel (952) 916-0800
Please print legibly

All of the information on this form is public and required in order to process this filing. Failure to provide the requested information will prevent the Office from approving or further processing this filing.

If you have any questions please contact the Secretary of State's office at **(651)296-2803.**

RETURN TO: Secretary of State
180 State Office Bldg., 100 Constitution Ave.
St. Paul, MN 55155-1299, (651)296-2803

08821340 Rev. 10/98

400455

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 20 2003 CS

Mary Kiffmeyer
Secretary of State

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

MAILED

MAY 27 2010

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,253,698
Issue Date: July 3, 2001
Application No. 09/152,377
Filed: September 14, 1998
Attorney Docket No. GTC0002/US

This is a decision on the petition under 37 CFR 1.378(c), filed September 18, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

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; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

With respect to item (1), the statement of unintentional delay cannot be accepted, since it appears that the instant petition is signed on the behalf of the assignee and fails to comply with the requirements of 37 CFR 3.73(b)[1]. The Statement Under 3.73(b) cannot be accepted since it does not specify a Reel and Frame number that identifies Glotek Corporation as the current assignment [2] of record.

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). This is not a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

---

[1] 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.
[2] **Assignment Branch Department (571) 272-3350 (contact the Assignment Branch for assignment related inquiries)**

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of $2,945, submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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

MAY 4 2000

Paper No. 5

RICHARD ESTY PETERSON
BIELEN PETERSON AND LAMPE
1990 N CALIFORNIA BOULEVARD
SUITE 720
WALNUT CREEK , CA 94596

In re Application of : David Miller Application No.: 09/152,815 Filed: September 14, 1998 For: PROGRAMMABLE SELF-OPERATING COMPACT DISC DUPLICATION SYSTEM	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed April 3, 2000, to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, item II: Infringement, must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;

(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge or the pertinent prior art.

Further, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE, SUITE 390
ST. PAUL, MN 55120

COPY MAILED

NOV 2 1 2005

OFFICE OF PETITIONS

In re Application of		
Dally et al.	:	
Application No. 09/152,944	:	
Filed: September 14, 1998	:	NOTICE
Patent No.: 6,269,435	:	
Issued: July 31, 2001	:	
For: SYSTEM AND METHOD	:	
FOR IMPLEMENTING CONDITIONAL VECTOR	:	
OPERATIONS IN WHICH AN INPUT VECTOR	:	
CONTAINING MULTIPLE OPERANDS TO BE	:	
USED IN CONDITIONAL OPERATIONS IS	:	
DIVIDED INTO TWO OR MORE OUTPUT	:	
VECTORS BASED ON A CONDITION VECTOR	:	

This is a notice regarding your request to change your entity status to large.

Office records reveal that the Board of Trustees of the Leland Stanford Junior University, and the Massachusetts Institute of Technology, are the assignee of the above-identified application.

In accordance with 37 CFR 1.27(g), said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Randi Black
LAW OFFICES OF DAVID H BLACK
3201 Pico Boulevard
Santa Monica CA 90405-2113

COPY MAILED

JUN 07 2005

OFFICE OF PETITIONS

In re Application of :
Randi Lynn Schindler : Three
Application No. 09/152,992 : Week
Filed: September 14, 1998 : Letter

A petition for access under 37 CFR 1.14 was filed by Marvin H. Kleinberg on behalf of Kleinberg & Lerner, LLP, for access to the above-identified application on May 16, 2005. The petition was filed without proof of service upon applicant. Accordingly, a copy of the petition papers filed May 16, 2005 is enclosed with this letter.

The petition requests access to the above referenced application based upon the special circumstances that petitioner is being "...sued for malpractice in connection with ... representation of the inventor..." It appears from page 2 of the attachment to the petition that the representation involved the above referenced application.

Access to an unpublished application may be granted if "special circumstances" are shown which warrant a grant of access under 35 U.S.C. § 122. See Manual of Patent Examining Procedure (MPEP), Section 103, and 37 CFR 1.14(h).

Applicants are hereby given THREE WEEKS from the date of this letter to file a response to this letter. If applicants fail to respond within the three week period, petitioner may be allowed access to the entire application. See MPEP Section 103.

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

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

By FAX: (703) 872-9306
Attn: Office Patent Legal Administration/Michael L. Lewis

Telephone inquiries should be directed to Michael L. Lewis at (571) 272-7755.

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

cc: Marvin H. Kleinberg
Kleinberg & Lerner
2049 Century Park E., #1080
Los Angeles, CA 90067

Attachment: Petition

UNITED STATES 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. 13

Marvin H. Kleinberg
Kleinberg & Lerner
2049 Century Park E., #1080
Los Angeles, CA 90067

COPY MAILED

JUL 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Randi Lynn Schindler : Decision
Application No. 09/152,992 : On
Filed: September 14, 1998 : Access

This is in response to a petition filed May 16, 2005, under 37 CFR 1.14 by Marvin H. Kleinberg on behalf of Kleinberg & Lerner, LLP, for access to the above-identified application on May 16, 2005. In response to a three week letter mailed June 7, 2005, David L. Hoffman filed a letter on behalf of applicant opposing granting access on June 28, 2005.

The petition is **DISMISSED**.

The petition requests access to the above referenced application based upon the special circumstances that petitioner is being "...sued for malpractice in connection with ... representation of the inventor..." It appears from page 2 of the attachment to the petition that the representation involved the above referenced application.

Applicant opposes granting access stating that confidentiality will be lost if access is not done through the discovery process.

When a matter is in litigation, the PTO generally leaves the decision as to whether and under what conditions one litigant should have access to another's application up to the discretion of the court in which the matter is being addressed. No "special circumstances" have been identified which would warrant not deferring to the court's discretion in the matter in litigation.

Accordingly, the petition is dismissed.

Telephone inquiries regarding this decision should be directed to Samuel Broda at (571) 272-7711.

Samuel Broda for

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

cc: Randi Black
LAW OFFICES OF DAVID H BLACK
3201 Pico Boulevard
Santa Monica CA 90405-2113

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF DAVID L. HOFFMAN
27023 MCBEAN PKWY
SUITE 422
VALENCIA, CA 91355

COPY MAILED

SEP 13 2005

OFFICE OF PETITIONS

In re Application of Randi L. Schindler :
Application No. 09/152,992 :
Filing Date: September 14, 1998 :
Attorney Docket No. 05-10022 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

The petition fee has not been paid. The merits of the petition will not be considered until the petition fee has been paid.

Petitioner must submit the petition fee of $750.

Petitioner may only pay $605 if petitioner proves an original petition under 37 CFR 1.137(b) and the fee were mailed to the Office on March 31, 2000. Office records fail to indicate receipt of the petition or check. If petitioner proves the petition and check were filed on March 31, 2000, petitioner may submit $605 for the petition fee rather than $750.

The current evidence is insufficient to prove the petition and fee were properly mailed on March 31, 2000. Petitioner has submitted a copy of the prior petition and check. The prior petition included a certificate of mailing signed by Helen Benninger, an employee of Kleinberg. However, a statement by Ms. Benninger, or a member of Kleinberg, has not been submitted. In order to prove the petition was timely mailed, 37 CFR 1.8(b)(3) requires petitioner supply a statement by a person with personal knowledge, or a statement to the satisfaction of the Commissioner, that the correspondence was in fact timely mailed or transmitted. Attorney Hoffman is not a party with personal knowledge concerning the mailing of the petition.

As a courtesy, the Office notes that the inventor of record is Randi L. Schindler and not Randi L. Black. One may not change the name of an inventor by simply having an inventor sign papers using a different name. Per MPEP 605.04(c),

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be

directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

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.

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

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

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

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

If a request for reconsideration is not filed, the application will remain abandoned and be returned to Files Repository.

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
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LAW OFFICES OF DAVID L. HOFFMAN
27023 MCBEAN PKWY
SUITE 422
VALENCIA, CA 91355

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MAR 2 0 2006
OFFICE OF PETITIONS

In re Application of Randi L. Schindler :
Application No. 09/152,992 :
Filing Date: September 14, 1998 :
Attorney Docket No. 05-10022 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2005, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.182 to change the name of the inventor.

The petition under 37 CFR 1.137(b) is **granted**.

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

The petition under 37 CFR 1.137(b)

Facts:

The application was filed on September 14, 1998.

The declaration filed with the application gives a power of attorney to Marshall Lerner, Marvin Kleinberg, and Michael Hurey. All three attorneys work for the law firm of Kleinberg & Lerner, LLP ("Kleinberg").

A non-final Office action was mailed November 12, 1998.

A reply to the November 12, 1998 Office action was filed on December 13, 1998.

A final Office action was mailed on March 15, 1999.

The inventor alleges she informed Kleinberg, specifically Michael Hurey, to file a reply to the final Office action. The specific date of this action is unknown.

A reply to the final Office action was not filed. Therefore, the application became abandoned as of midnight on June 15, 1999.

A Notice of Abandonment was mailed on November 9, 1999.

On an unspecified date, Hurey allegedly requested $605 and allegedly advised the inventor an amendment would be filed per her request.

Petitioner alleges a petition under 37 CFR 1.137(b) and a check for the $605 petition fee were mailed to the Office on March 31, 2000. A copy of the petition and check have been submitted. Office records do not indicate the receipt of the petition or the check. The March 31, 2000 petition does include a certificate of mailing signed by Helen Benninger, an employee of Kleinberg. However, a statement by Ms. Benninger, or a member of Kleinberg, has not been submitted.

During December of 2001, the inventor had the file transferred from Kleinberg to Lyon & Lyon, LLP ("Lyon"). A Revocation of Power of Attorney and Appointment of New Attorney was mailed to the Office on December 20, 2001. The Revocation is signed with the name, "Randi L. Black." However, the declaration filed with the application lists the inventor's name as Randi Lynn Schindler.

On January 16, 2002, Lyon sent a status inquiry to the Office.

On June 18, 2002, the inventor filed a Revocation of Power Attorney. The paper states that all previous powers of attorney are revoked. The paper states that all future correspondence should be addressed to the Law Offices of David H. Black. The paper is signed with the name "Randi L. Black." The instant petition is also accompanied by a Request for Continued Examination and amendment.

The inventor alleges that a status inquiry was mailed to the Office. The Office file does not indicate a status inquiry was ever received. A copy of the status inquiry has not been supplied.

The inventor alleges she made several attempts to determine the status of the application.

During April of 2004, more than 4 years after a petition under 37 CFR 1.137(b) was allegedly filed, the inventor spoke with Larry Schwartz of the PTO Customer Service Center. He informed the inventor the application was abandoned and sent a copy of the Notice of Abandonment to the inventor.

The instant petition was filed on March 28, 2005. The instant petition is accompanied by a power of attorney appointing David Hoffman as a legal representative. The power of attorney is signed with the name "Randi L. Black."

On April 22, 2005, the inventor filed a lawsuit against Kleinberg including allegations of malpractice. On May 16, 2005, Kleinberg filed a petition for access. On June 7, 2005, the Office informed applicant a petition for access had been filed and gave the inventor an opportunity to respond. Applicant filed an objection to the request for access on June 28, 2005.

A decision dismissing the petition for access was mailed July 15, 2005.

Discussion:

Attorney Hoffman was not an attorney of record at the time the application became abandoned. Attorney Hoffman was not in a position to have firsthand or direct knowledge of all the facts and circumstances of the delay. Nevertheless, the statement by Hoffman that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] Therefore, the petition will be granted.

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 a portion of the delay 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 under 37 CFR 1.182

The application was filed September 14, 1998.

At the time the application was filed, the inventor's name was Randi L. Schindler.

The inventor married David Black on July 15, 2001.

The inventor's legal name is now Randi L. Black.

MPEP 605.04(c) states:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names and setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The affidavit is not signed with both names - Randi L. Schindler and Randi L. Black.

As of November 1, 2004, the fee for petitions under 37 CFR 1.182 is $400. Petitioner submitted $130. Therefore, an additional $270 must be submitted.[2]

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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

[2] **Error! Main Document Only.**See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

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

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

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

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Once the petition under 37 CFR 1.182 is granted, the application will be forwarded to the examiner.

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

COPY MAILED
MAR 20 2006
OFFICE OF PETITIONS

In re Application of
Hill et al.
Patent No. 6,870,535
Application Number: 09/153,077
Issue Date : March 22, 2005
Filing Date: September 15, 1998
Attorney Docket Number: 1690966

DECISION ON PETITION

This is a decision on the petition for certificate of correction under 37 CFR 1.183 filed on February 28, 2006. The petition is properly treated under 37 CFR 3.81 (b) to add an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **Dismissed**.

Any request for reconsideration 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 not permitted. The reconsideration request should include a cover letter entitled "Renewed Petition". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Effective June 25, 2004, when a request to issue a patent to an assignee is filed after payment of the issue fee, a certificate of correction must be submitted as there is no time to process these request before a patent is issued. See 69 Fed. Reg. 29865 (May 26, 2004).

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

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;

(B) provide a request for a certificate of correction §1.323;

(C) provide the fee set forth in 37 CFR §1.20 (a) and

(D) provide the processing fee set forth in 37 CFR §1.17(l)

Petitioner has failed to establish (A). A review of Office Assignment records (reel 011036 frame 0686) appears to show that the above patent was assigned solely to Canon Kabushiki Kaisha, Japan. Canon Information Systems Research, Australia appears to have conveyed its interest in a document executed on February 2, 2000. There is no indication that Yuichiro Haramoto was a joint assignee. Accordingly, a correction of the assignee's name is not in order.

If petitioner can provide evidence to the contrary, a request for reconsideration should be provided.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6055832	2000-05-02	09153511	1998-09-15	1656

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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 Wray Carpenter/	Date (YYYY-MM-DD)	2008-08-22
Name	John Wray Carpenter	Registration Number	57830

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6055832
Issue Date: May 2,2000
Application No. 09153511
Filed: September 15,1998
Attorney Docket No. 1656

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6117503
Issue Date: September 12,2000
Application No. 09153557
Filed: September 15,1998
Attorney Docket No.

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

This is a decision on the electronic petition, filed March 11,2010 ,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 11,2010 .
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)
6117503	2000-09-12	09153557	1998-09-15	

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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	/John Buchaca/	Date (YYYY-MM-DD)	2010-03-11
Name	John D. Buchaca	Registration Number	37289

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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9. A record from this system of records may be disclosed, as a routine use, 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 : 11-15-08

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/153805 Patent No.: 6435898

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Request 11-6-08
and 11-17-08

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: examiner Michael Zarroli 12/22/08
Changes to be made are with regards to Form not claim patentability.

TC Patel — SPE
2839 — Art Unit

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 24

MAILED

AUG 26 2003

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOEL PAGE, EDWIN DE ANGEL, WAI LAING LEE,
LEI WANG, HONG ZHENG and CHUNG-KAI CHOW

Appeal No. 2001-2387
Application No. 09/153,864

ON BRIEF

Before KRASS, FLEMING, and SAADAT, Administrative Patent Judges.
SAADAT, Administrative Patent Judge.

DECISION ON APPEAL AND ORDER

This is a decision on appeal from the Examiner's final rejection of claims 1-13. Claims 14-17 have been withdrawn from consideration as being drawn to a non-elected invention.

We reverse.

BACKGROUND

Appellants' invention is directed to a power on reset circuit which inhibits all clock signals that are used for digital logic operation until the applied voltage becomes stable.

Representative independent claim 1 is reproduced as follows:

1. A power on reset circuit, comprising:

a. a first circuit for applying a first voltage within said power on reset circuit, and

b. a circuit for starting phase locked loop when voltage applied by said first circuit exceeds a threshold, for inhibiting operation of at least a plurality of clocks until released, and for releasing all inhibited clocks once voltage stability is achieved.

Claims 1-13 stand rejected under the first paragraph of 35 U.S.C. § 112 for lack of an enabling disclosure.

Claims 1-13 stand rejected under the second paragraph of 35 U.S.C. § 112 as being indefinite.[1]

Rather than reiterate the viewpoints of the Examiner and Appellants regarding the rejections, we make reference to the answer (Paper No. 19, mailed May 22, 2001) for the Examiner's reasoning and to the appeal brief (Paper No. 18, filed March 5, 2001) for Appellants' arguments thereagainst.

OPINION

With regard to the rejection under the first paragraph of 35 U.S.C. § 112, the Examiner points out that box 795 in Figure 7 of the application does not include any specific structure of a

[1] The 35 U.S.C. § 102(b) rejection of claims 1, 6, 7 and 12 as being anticipated by Shaik, as stated in the final rejection (Paper No. 14, mailed September 29, 2000), has been withdrawn by the Examiner.

power on reset circuit to support the claimed functions (answer, page 3). The Examiner further argues that the relationship between the PLL and the plurality of clocks is not clear as circuit 795 is depicted in Figure 7 to be isolated from the rest of the circuitry (id.). Additionally, the Examiner questions the existence of the supporting structure for the recited "releasing all inhibited clocks once voltage stability is achieved" (answer, page 4).

Appellants argue that the required structural components such as power on circuits and threshold voltage detection circuits were known and readily available at the time of filing of the application (brief, page 6). Appellants, further rely on page 31, lines 32-35 of the specification and indicate that the POR circuit 795 of Figure 7 uses the specific protocol disclosed in page 32, lines 1-21 to ensure correct start up of the integrated circuit chip (brief, page 5). Additionally, Appellants refer to "TMI bus" in Figure 7 for providing an interconnection among POR circuit 795, switch converter 770 and clock control logic 725 and conclude that one of ordinary skill in the art could readily incorporate these known components to perform the recited functions (brief, pages 7 & 8).

The Examiner responds to Appellants' arguments by stating that the parts of the disclosure at pages 31 and 32, as referred to by Appellants, is directed toward the waveforms diagram shown in Figure 25 without disclosing how they are achieved (answer, page 5). The examiner further points out that power ON reset component 795 does not include component 725 whereas the recited claims appear to require some specific connections at least between a power ON reset circuit and a PLL (answer, page 6). Additionally, the Examiner questions the sufficiency of the disclosure for enabling one of ordinary skill in the art to connect the disclosed components such that the power ON circuit may have the ability to detect a threshold and a stable voltage and control different clock modes (answer, page 7).

We note that the first paragraph of 35 U.S.C. § 112 provides:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Our reviewing court has further stated that the enablement requirement is satisfied when the specification, when filed, enables one skilled in the particular art to use the invention

without undue experimentation. In re Wands, 858 F.2d 731, 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988). Additionally, to be enabling, the specification must teach those of skill in the art "how to make and how to use the invention as broadly as it is claimed." In re Vaeck, 947 F.2d 488, 496, 20 USPQ2d 1438, 1445 (Fed. Cir. 1991).

We find that Appellants' specification contains various references to the power on reset circuit of Figure 7 applying the disclosed protocol that follows the timing diagram of Figure 25 such that different components are turned on or off at different times to ensure the operation of the clocks starts after the switch converter output stabilizes. The specification further indicates that when the supply voltage VDD is first applied, the power on reset circuit and the phase locked loop are activated and the duty cycle of the switch converter is set to unity (page 32, lines 4-12). After the switch converter is stabilized at 5.0 volts, the duty cycle hold is removed and the switch converter seeks its programmed value which is achieved after a settling time T_{SC_SETTLE}, after which the hold on all the clocks is removed and the chip starts to operate (page 32, lines 12-21). Therefore, to the extent that is claimed, the power on reset circuit provides the necessary controls for power on and the

control of the clock signals through the operation of the switch converter.

In view of the analysis above, we find that one skilled in the art would have been able to provide for the necessary connections for operating the power on reset circuit for inhibiting the clock signals until voltage stability is achieved according to the requirements of well known components without undue experimentation. We further find that the specification teaches the requirements for the proper connection of the power on reset circuit and the switch converter as broadly as defined by the scope of the claims. Accordingly, we reverse the rejection of claims 1-13 under the first paragraph of 35 U.S.C. § 112.

With respect to the rejection of claims under the second paragraph of 35 U.S.C. § 112, the examiner questions the clarity of the relationship between the first circuit and the circuit for starting a phase locked loop and how the clocks are inhibited and released (answer, page 4). Appellants argue that the claimed first circuit is directed to a power supply which applies a voltage to the power on reset circuit while such power supplies are known in the industry (brief, page 8). Appellants further point out that the terms "inhibit" and "release," as recited with

respect to the control of the clock circuits, is readily understood and do not need further detailed recitation in the broadest claims as to how the control is done (brief, pages 9 & 10).

In response, the Examiner indicates that the relationship between the components recited in claim 1 goes beyond the basic connection as the recited circuit apparently detects both a threshold voltage and a stable voltage and controls two different clock modes (answer, page 9). The Examiner further argues that it is not clear whether the power on reset circuit, as represented by box 795 in Figure 7, includes the first circuit or is a separate component (id.).

Analysis of 35 U.S.C. § 112, second paragraph, should begin with the determination of whether claims set out and circumscribe the particular area with a reasonable degree of precision and particularity; it is here where definiteness of the language must be analyzed, not in a vacuum, but always in light of teachings of the disclosure as it would be interpreted by one possessing ordinary skill in the art. In re Johnson, 558 F.2d 1008, 1015, 194 USPQ 187, 193 (CCPA 1977), citing In re Moore, 439 F.2d 1232, 1235, 169 USPQ 236, 238 (1971). "The legal standard for definiteness is whether a claim reasonably apprises those of

skill in the art of its scope." In re Warmerdam, 33 F.3d 1354, 1361, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). Furthermore, our reviewing court points out that a claim which is of such breadth that it reads on subject matter disclosed in the prior art is rejected under 35 U.S.C. § 102 rather than under 35 U.S.C. § 112, second paragraph. See In re Hyatt, 708 F.2d 712, 715, 218 USPQ 195, 197 (Fed. Cir. 1983) citing In re Borkowski, 422 F.2d 904, 909, 164 USPQ 642, 645-46 (CCPA 1970).

Upon a careful review of the claim language and the specification, we find that the claimed "first circuit for applying a first voltage" clearly refers to a power supply. It is clear from the specification as a whole, and page 32 specifically, that a 5 volt VDD is first applied which activates the power on reset circuit and causes the phase locked loop to begin its oscillation. The specification on page 32 also provides for other components that perform the start up protocol applied by the power on reset circuit such as the switch converter for releasing the clocks after voltage stability is achieved. We further find that the details of the switch converter and the mode register for controlling the duty cycle of the switch converter and the recited releasing of the hold on the

inhibited clocks are also provided in the specification at pages 30-33.

In view of the above and in light of the specification as a whole, we find that the first circuit, the circuit for starting a phase locked loop and inhibiting/releasing the operation of the clock circuits are sufficiently defined and would reasonably apprise those skilled in the art of the scope of these limitations. Accordingly, we will not sustain the rejection of claims 1-13 under the second paragraph of 35 U.S.C. § 112.

CONCLUSION

In view of the foregoing, the decision of the Examiner rejecting claims 1-13 under the first and the second paragraphs of 35 U.S.C. § 112 is reversed.

REVERSED

ERROL A. KRASS Administrative Patent Judge	)
MICHAEL R. FLEMING Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
MAHSHID D. SAADAT Administrative Patent Judge	)

MDS/ki

Appeal No. 2001-2387
Application No. 09/153,864

Blakely, Sokoloff, Taylor & Zafman
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025

UNITED STATES 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. 28

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

MAILED

NOV 04 2004

In re Application of:	:	
JOEL PAGE *et al.*	:	
Serial No.: 09/153,864	:	DECISION ON REQUEST TO WITHDRAW
Filed: September 16, 1998	:	FROM RECORD
Attorney Docket No.: **3929P026**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 20, 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 Thomas S. Ferrill, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time. It is noted that the application is now abandoned.

All future communications from the Office will be directed the assignee, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Hien H. Phan at (571) 272-1606.

Hien H. Phan, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: CIRRUS LOGIC (CYRSTAL)
2901 VIA FORTUNA
AUSTIN, TX 78746

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STEVEN LIN
CIRRUS LOGIC (CRYSTAL)
2901 VIA FORTUNA
AUSTIN TX 78746

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MAY 09 2005

OFFICE OF PETITIONS

In re Application of	:
Joel Page et al	:
Application No. 09/153,864	: DECISION GRANTING PETITION
Filed: September 16, 1998	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 0885-CS	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 16, 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 16, 2003, as required by the Notice of Allowance and Fee(s) Due, mailed September 16, 2003. A Notice of Abandonment was mailed on January 20, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the $1,330 issue fee; (2) the $1,330 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Sep-08

ELAN DRUG DELIVERY, INC. C/O FOLEY & LARDNER
3000 K STREET, N.W.
SUITE 500
WASHINGTON DC 20007-5109

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OCT 07 2008

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6153225 :
Issue Date: 11/28/2000 :
Application Number: 09/154422 :
Filing Date: 08/13/1998 :
Attorney Docket Number: :
29318/128 :

This is a decision on the petition under 37 CFR 1.182, filed on August 20, 2008, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Office of Data Management is directed to issue a duplicate Letters Patent.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 119.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letters Patent.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions

cc: Niomi Farmer, South Tower 8C23 (FAX 571-270-9753)

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Paper No. 20

MAIL

NOV 0 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

VERIZON CORPORATE SERVICES GROUP INC.
C/O CHRISTIAN R. ANDERSEN
600 HIDDEN RIDGE DRIVE
MAILCODE HQE03H14
IRVING TX 75038

In re Application of:
Craig Reding, et al.
Application No. 09/154,965
Filed: September 17, 1998
For: **METHODS AND APPARATUS FOR AUTOMATING THE SERVICING OF TELEPHONE CALLS INCLUDING REQUESTING DIRECTIONAL AND/OR OTHER TYPES OF INFORMATION**

DECISION
ON PETITION

This is a decision on the Petition to Withdraw the Holding of Abandonment, allegedly filed on October 2, 2002 and re-filed on July 22, 2004 which is treated as pursuant to MPEP §711.03 and 37 C.F.R. §1.181(a). No fee is required.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the notice of non-responsive Office action mailed November 21, 2001, which set a shortened statutory period of one (1) month to reply. A Notice of Abandonment was mailed on September 10, 2002.

Petitioner alleges to have timely filed a proper response to the notice of non-responsive Office action mailed November 21, 2001. In support, petitioner has provided as evidence, a copy of said response, which included a Certificate of Facsimile Transmission dated December 19, 2001. Also included with the response is a copy of an Auto-Reply Facsimile Transmission indicating that an 8-page document from Petitioner was received in the U.S. Patent and Trademark Office on December 19, 2001.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:
(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Petitioner is also the one who executed the certificate of transmission. Thus, satisfying the personal statement requirement. Accordingly, it is deemed that the original response was received on December 19, 2001 and subsequently misplaced. The Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the technical support staff for entry of the copy of the original response which accompanied the subject petition. Thereafter, the application will be forwarded to the Examiner for appropriate action in due course.

For future reference, Applicants might want to note that all future facsimile transmissions to the Office should be to the Official Fax number for the entire Patent and Trademark Office (i.e., 703-872-9306).

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21

ALCATEL INTERNET WORKING SYSTEM, INC.
ALCATEL-INTELLECTUAL PROPERTY DEPARTMENT
3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

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JUL 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Christopher Haywood et al	:	
Application No. 09/154,966	:	DECISION GRANTING PETITION
Filed: September 17, 1998	:	UNDER 37 CFR 1.183
Atty Dkt No. 39892/JEC/X2/111480	:	

This is a decision on the petition filed June 26, 2003, under 37 CFR 1.47(a), which is being treated under 37 CFR 1.183 to waive 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.[1]

The petition is granted to the extent *infra*.

The record discloses that, on February 3, 2003, a reply in the form of an amendment and an executed declaration [under 37 CFR 1.131] were received as a response to the Office action of September 27, 2002. However, on April 22, 2003, the examiner herein mailed a Notice of Non-Responsive Amendment stating that the reply received on February 6, 2003 was not fully responsive to the September 27, 2002 Office action because joint inventor Mr. Christopher Haywood did not sign the declaration filed on February 6, 2003. The Office action set a one (1) month or (30) day period from the mailing of the Office action within which to supply the omission or correction in order to avoid the abandonment of the application.

---

[1] It is noted that the examiner, in the Office action of April 22, 2003, directed applicants' attention to 37 CFR 1.47 if one of the inventors refuses to sign or cannot be reached to execute the declaration. However, when an inventor who executed the original declaration [oath] is refusing or cannot be found to execute a required supplemental declaration, it is possible that the requirement may be suspended or waived in accordance with 37 CFR 1.183. *Note* MPEP 603. Therefore, the submission of a petition under 37 CFR 1.47 is not the appropriate avenue of relief in this instance. Therefore, the petition has been treated under the provisions of 37 CFR 1.183 to waive the provisions of 37 CFR 1.131.

In reply, petitioner asserts that, on May 21, 2003, a copy of a declaration, along with a letter, was mailed to Mr. Haywood at his last known address, which was delivered to Mr. Haywood on May 22, 2003. The accompanying letter requested that the declaration be executed by Mr. Haywood and returned to petitioner no later than June 17, 2003. However, as of the date of the petition, petitioner herein has not received the executed declaration from Mr. Haywood. Evidence has been provided to show that Mr. Haywood did receive the communication requesting execution of the declaration under 37 CFR 1.131.

While the declaration under 37 CFR 1.131 indicates that the named inventors contributed to the conception of the claimed invention, which is under rejection, only joint inventor Geoffrey C. Stone has executed a declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to January 7, 1997.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require an executed declaration under 37 CFR 1.131 by joint inventor Haywood. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference(s) and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This application is being forwarded to Technology Center AU 2665 for further examination.

Inquiries regarding this communication may be directed to the undersigned at (703) 305-8680.

Frances Hicks

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

BH

Conferree: Brian Hearn

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Paper No. 12

Carol A. Lewis White
W. L. Gore & Associates, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark, DE 19714-9206

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JAN 18 2002

OFFICE OF PETITIONS

In re Application of
David George Halley, et al.
Application No. 09/155,041
Filed: September 17, 1998
Attorney Docket No. FA/153A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 27, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 13, 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 application became abandoned on August 14, 2001.

This application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on November 27, 2001.

Telephone inquiries regarding this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Technology Center 1771 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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Paper No.

GARY A SAMUELS
W L GORE & ASSOCIATES INC
551 PAPER MILL ROAD
NEWARK, DE 19714-9206

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OFFICE OF PETITIONS

In re Application of:
Halley et al.
Application No. 09/155,041
Filed: March 4, 1999
Title of Invention:
WATER VAPOR PERMEABLE COMPOSITE MATERIAL

DECISION ON PETITION

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 20, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed July 3, 2003. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed an Amendment in response to the Office action on October 3, 2003; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory action mailed on December 11, 2003.

Applicant subsequently filed a Request for Continued Examination ("RCE") and a Request for a Three (3) Month Extension of time on December 24; however, no submission was filed with the RCE.

Having failed to satisfy the Office action, the application became abandoned on January 4, 2003. A Notice of Abandonment was mailed on January 29, 2004.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.**

With the instant petition, Petitioner paid the petition fee; submitted a Request for Continued Examination ("RCE"), and fee, and a submission in the form of an Amendment. Accordingly, the petition is granted.

This application is being returned to Technology Center 1771 for processing of the RCE and Amendment.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/20/07

TO SPE OF : ART UNIT 1641 Rao Manjunath N (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/155252 Patent No.: 6830882

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 correction which recites "Claim 8, column 24, lines 58 and 59, before the word "compound" insert --test--" cannot be entered. This is because the correction is required in "Claim 6" but not "Claim 8".

Manjunath
SPE

1647
Art Unit

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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In re Patent No. 6114571
Issue Date: September 5,2000
Application No. 09155442
Filed: November 2,1998
Attorney Docket No. RUH-252

:
: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)
6,114,571	2000-09-05	09/155,442	1998-11-02	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Frederick F. Calvetti/	Date (YYYY-MM-DD)	2008-11-11
Name	Frederick F. Calvetti	Registration Number	28557

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

28 JUN 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Allan Ratner
RATNER & PRESTIA
Suite 301, One Westlakes, Berwyn
P.O. Box 980
Valley Forge, PA 19482-0980

In re Application of Gwenyth Jane FARRAR et al. Application No.: 09/155,708 PCT No.: PCT/GB97/00929 Int. Filing Date: 02 April 1997 Priority Date: 02 April 1996 Attorney's Docket No.: MUR-7520 For: GENETIC SUPPRESSION AND REPLACEMENT	DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision in response to applicant's "Communication" filed 20 December 1999. The Communication is being treated as a petition under 37 CFR 1.181 as applicant is requesting that copies of the documents filed 20 December 1999 be accepted as having been originally filed on 05 April 1999. The petition is GRANTED.

BACKGROUND

On 02 April 1997, applicant filed international application PCT/GB97/00929, claiming priority to British application 9606961.2, filed 02 April 1996. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 October 1997. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on 02 October 1998.

On 02 October 1998, applicant filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States under 35 U.S.C. 371, accompanied by, *inter alia*, a copy of the international application, the requisite basic national fee, and an unexecuted declaration.

On 03 March 1999, the United States Patent and Trademark Office (PTO) mailed a "Notification of Missing Requirements Under 35 U.S.C. 371" (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for providing the oath or declaration later than thirty months from the priority date. Applicant was given a one month extendable period for response.

On 13 December 1999, after receiving no response from applicant to the "Notification of Missing Requirements," the PTO mailed a "Notification of Abandonment" (Form PCT/DO/EO/909) indicating the application was abandoned.

On 20 December 1999, applicant filed the instant petition requesting that copies of the papers filed therewith be accepted as having been originally filed on 05 April 1999. The petition included, *inter alia*, copies of the executed declaration, date stamped postcard receipt, Express Mail label number EL324657470US, transmittal letter and fee calculation sheet, small entity statement, and certificate of mailing by Express Mail.

DISCUSSION

MPEP at section 503 states, in part:

> "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facia* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Although PTO records do not confirm the submission of papers in response to the "Notification of Missing Requirements", the evidence submitted by applicants, which itemizes the filing of a transmittal letter, executed declaration, fee for submitting the declaration later than thirty months from the priority date, small entity statement, assignment, and recording fee on 05 April 1999, is sufficient to establish that such papers were filed on 05 April 1999.

CONCLUSION

For the reason above, the "Notification of Abandonment" mailed 13 December 1999 is hereby VACATED.

The application is being returned to the DO/EO/US for further processing in accordance with this decision. Applicant will be notified shortly of the outcome of this processing.

The 35 U.S.C. 371 and 102(e) date of this application is 05 April 1999.

Kimberly Jordan
PCT Legal Detailee
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 17 2006

OFFICE OF PETITIONS

SULLIVAN & WORCESTER LLP
ONE POST OFFICE SQUARE
BOSTON, MA 02109

In re Application of	:	
Gwenyth Jane Farrar et al	:	
Application No. 09/155,708	:	ON PETITION
Filed: April 5, 1999	:	
Attorney Docket No. MUR-7520		

This is a decision on the petition, filed February 16, 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 July 5, 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]

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

This matter is being referred to Technology Center AU 1635 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

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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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 25

BAKER & BOTTS
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OCT 0 7 2002

OFFICE OF PETITIONS

In re Application of
Sylvestre Jobic
Application No. 09/155,843
Filed: December 23, 1998
Attorney Docket No. A32002-PCTUS

DECISION ON PETITION

This is a decision on the petition to revive the above-identified application pursuant to 37 CFR 1.137(b), filed July 30, 2002.

The petition is **GRANTED.**

The above-identified application became abandoned as a result of petitioner's failure to timely file an Appeal Brief. A final Office action was mailed on February 22, 2001, which set a shortened statutory period for reply of three months. Petitioner obtained a three month extension of time and replied with a Notice of Appeal on August 20, 2001. Accordingly, petitioner had two months from the filing of the Notice of Appeal, or until October 20, 2001, to file an Appeal Brief (with fee) in triplicate. No Appeal Brief having been received, the above-identified application became abandoned on October 21, 2001. A Notice of Abandonment was mailed on June 5, 2002.

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

The application file is being forwarded to Technology Center 1600 for processing of the CPA.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6151356
Issue Date: November 21,2000
Application No. 09156019
Filed: September 17,1998
Attorney Docket No. ID0673CIP

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

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

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)
6,151,356	2000-11-21	09/156,019	1998-09-17	22493-154

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Jean-Pierre FORTIN/	Date (YYYY-MM-DD)	2009-11-20
Name	Jean-Pierre FORTIN		
Enter Reel and Frame Number		Remove	
Reel Number	009470	Frame Number	0824
Enter Reel and Frame Number		Remove	
Reel Number	011081	Frame Number	0297
Enter Reel and Frame Number		Remove	
Reel Number	010567	Frame Number	0001
Enter Reel and Frame Number		Remove	
Reel Number	011081	Frame Number	0304
Enter Reel and Frame Number		Remove	
Reel Number	011195	Frame Number	0706
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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)
6780175	2004-08-24	09156276	1998-09-17	STSC-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	/Kristi L. Davidson/	Date (YYYY-MM-DD)	2008-09-09
Name	Kristi L. Davidson	Registration Number	44643

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

In re Patent No. 6780175
Issue Date: August 24,2004
Application No. 09156276
Filed: September 17,1998
Attorney Docket No. STSC/10

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

This is a decision on the electronic petition, filed September 9,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 9,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOK MCFARRON & MANZON
200 WEST ADAMS STREET
SUITE 2850
CHICAGO IL 60606

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of :
Hongyong Zhang et al. :
Application No. 09/156,461 : DECISION ON PETITION
Filed: September 18, 1998 :
Attorney Docket No.: SEL-112 :
Title: IMAGE SENSOR AND IMAGE :
SENSOR INTEGRATED INTEGRATED :
TYPE ACTIVE MATRIX TYPE DISPLAY :
DEVICE :

This is a decision on the petition filed December 22, 2004, requesting that the above-identified application be accorded a filing date of September 18, 1998.

The application was deposited on September 18, 1998. Shortly thereafter, a filing receipt was mailed which indicated that the application had been accorded a filing date of September 18, 1998.

On September 5, 2000, a corrected filing receipt was mailed, indicating that the present application had been accorded a filing date of September 5, 2000. It is noted that the non-final office action of November 19, 2004 indicates that the filing date of the application is September 5, 2000.

Upon review of the record, it is not clear why a corrected filing receipt was mailed by the Office, and it is not clear why the application would have been accorded a filing date of September 5, 2000. It is noted that the application contained a written description, at least one claim, and drawings on filing.

Therefore, the application was complete on filing and is entitled to a filing date of September 18, 1998.

Accordingly, the petition is **GRANTED**.

The notice mailed September 5, 2000 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary.

The application file is being returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of September 18, 1998. OIPE will then mail a corrected filing receipt.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

McCutchen Doyle Brown & Enersen
Three Embarcadero Center
San Francisco, CA 94111

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JAN 2 5 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Weiner et al.
Application No. 09/156,509
Filed: September 17, 1998
Attorney Docket No. 13761-704 US1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to respond in a timely manner to the non-final Office action mailed March 29, 2000, which set a shortened statutory period of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 30, 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 $445 extension of time submitted with the petition on December 12, 2000 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The file will be forwarded to Technology Center 1600, Art Unit 1644, for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examinatin Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 12

HARNESS DICKEY & PIERCE
P.O. BOX 8910
RESTON, VA 20195

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JUN 06 2003

OFFICE OF PETITIONS

In re Application of :
Alex Matusevich :
Application No. 09/156,761 : ON PETITION
Filed: September 18, 1998 :
Attorney Docket No. 2925-149P :

This is a decision on the petition under 37 CFR 1.137(b), filed May 16, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 9, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 10, 2002.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

A petition to revive cannot be granted where there is an outstanding requirement. In the instant case, there was no response to the outstanding official action submitted. Accordingly, the petition to revive cannot be granted until such time as the outstanding response requirement is received.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 14

HARNESS DICKEY & PIERCE
P.O. BOX 8910
RESTON, VA 20195

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AUG 28 2003

OFFICE OF PETITIONS

In re Application of	:	
Alex Matusevich	:	
Application No. 09/156,761	:	ON PETITION
Filed: September 18, 1998	:	
Attorney Docket No. 2925-149P	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 6, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

The after final amendment filed on August 6, 2003 does not place the application in condition for allowance. Therefore, the proposed amendment does not constitute a proper reply under 37 CFR §1.137(b)(1) and this petition must be dismissed.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon

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

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Paper No. 14

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HARNESS DICKEY & PIERCE
P.O. BOX 8910
RESTON, VA 20195

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AUG 28 2003
OFFICE OF PETITIONS

In re Application of
Alex Matusevich
Application No. 09/156,761
Filed: September 18, 1998
Attorney Docket No. 2925-149P

ON PETITION

REQ FOR RECON.
10-28-03
JLL

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 6, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

The after final amendment filed on August 6, 2003 does not place the application in condition for allowance. Therefore, the proposed amendment does not constitute a proper reply under 37 CFR §1.137(b)(1) and this petition must be dismissed.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

Wan Laymon

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

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COMMISSIONER FOR PATENTS
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Paper No. 18

HARNESS DICKEY & PIERCE
P.O. BOX 8910
RESTON, VA 20195

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NOV 1 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Alex Matusevich	:	
Application No. 09/156,761	:	ON PETITION
Filed: September 18, 1998	:	
Attorney Docket No. 2925-149P	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 28, 2003, to revive the above-identified application.

The petition is **GRANTED**.

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

The application file is being forwarded to Technology Center AU 2663 for processing of the request for continued examination (RCE) under 37 CFR 1.114 and the concurrently filed Amendment.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 26

Norris McLaughlin & Marcus
220 East 42nd Street
30th Floor
New York, NY 10017

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MAR 07 2003

OFFICE OF PETITIONS

In re Application of :
Bernhard Mussig :
Application No. 09/156,886 : ON PETITION
Filed: September 18, 1998 :
Attorney Docket No. 101769-26 / teas AG 516.1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 28, 2001. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 29, 2002.

The application file is being forwarded to Technology Center 1733 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
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

LOTT & FRIEDLAND, P.A.
P.O. BOX 141098
CORAL GABLES FL 33114-1098

COPY MAILED
MAR 15 2010

In re Patent No. 6,035,659	:	
Issue Date: March 14, 2000	:	
Application No. 09/157,027	:	DECISION ON PETITION
Filed: September 18, 1998	:	UNDER 37 CFR 1.378(b)
Attorney Docket No. 03090-1-0510	:	
	:	

This is a decision on the petition under 37 CFR 1.378(b), filed February 19, 2010, originally filed May 27, 2009, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued March 14, 2000. The first maintenance fee could have been paid from March 15, 2000 through March 14, 2004, or with a surcharge during the period from March 15, 2004 through March 15, 2006. Accordingly, the patent expired at midnight March 14, 2004, for failure to timely submit the (first) maintenance fee.

The second maintenance fee could have been paid from March 14, 2004 through March 14, 2008, or with a surcharge during the period from March 15, 2008 through March 15, 2010. Accordingly, the patent expired at midnight March 14, 2004, for failure to timely submit the (first) maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item (**1**and **2**) above.

The petitioner did include the first and second maintenance fees with the petition.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

Petitioner states that the delay in payment of the first and second maintenance fees were unavoidable due to financial difficulties at the time in question, and at the same time, petitioner's daughter's physical infirmities.

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

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due to (his) financial and his daughter's medical conditions until the petition was filed.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra. Put otherwise, the issues of petitioner's health and financial problems are immaterial in the absence of a showing that these, and not the lack of any steps in place to pay the fee, caused or contributed to the delay.

A showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the entire period of the delay was such as to excuse the delay. See Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). The showing of record does not adequately establish that petitioner's entire delay in paying the second maintenance fee from March 14, 2008 , until the petition was filed on or about May 27, 2009, was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).

A complete showing, with supporting documentation, is required of the financial condition of petitioner or the party responsible for payment of the maintenance fees. Such showing should include all income, expenses, assets, credit, and obligations, which made the delay in payment of the maintenance fee from July 27, 2001, until the filing of the petition on or about November 5, 2001, "unavoidable." A monthly breakdown is preferred. In essence, petitioner must show that she was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was financially unable to make the payment until the petition was filed. The showing should include documentary proof of the maintenance fee tracking system, the entry of this patent in that system and an explanation of how the system worked.

As to the health problems, petitioner should note that under the circumstances of this case, he will have to provide documents from licensed health care providers, demonstrating the nature and extent of petitioner's daughter's incapacitation, in such a manner that petitioner was, from the date of expiry until the filing of the petition on May 27, 2009, "unavoidably" prevented from taking any earlier action with respect to this patent. Additionally, petitioner must state how he manages to conduct his daily personal and business affairs, including scheduling and settlement of short and long term debts and business obligations, bills, rent or mortgage payments, income taxes etc., during the time in question. Petitioner must demonstrate that his financial and health problems were such as to cause the payment of the maintenance fee to have been unavoidably delayed.

Petitioner should also note that since the maintenance fee was proffered within 24 months of the date of expiration date of the patent, he has an alternate remedy under the unintentional provisions of 37 CFR 1.378(c) which does not require a showing of the delay in timely paying the maintenance fee in order to reinstate the patent. The $700 already submitted would be applied to the $1,640 fee owed under 37 CFR 1.378(c), leaving a balance due of $940.

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

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman K Page

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **LUIS FERNANDEZ, SR.**
8251 NW 198TH STREET
HIALEAH, FL 30015

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. 6154516
Issue Date: November 28,2000
Application No. 09157028
Filed: September 18,1998
Attorney Docket No. PKR2507

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

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6154516	2000-11-28	09157028	1998-09-18	

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

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

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

NOT Small Entity

	Fee	Code
○	3 ½ year	(1551)
◉	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael E Marion/	Date (YYYY-MM-DD)	2009-05-18
Name	Michael E. Marion	Registration Number	32266

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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SPECIAL PROGRAMS OFFICE
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Felix J. D'Ambrosio
Jones, Yullar & Cooper, P.C.
P.O. Box 2266
Eads Station
Arlington, VA 22202

In re Application of
Toshiaki Kanemitsu, et al.
Application No. 09/157,318
Filed: September 21, 1998
Attorney Docket No. (None)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2000, to revive the above-identified application.

This above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in a timely manner to the Final Office Action mailed November 30, 1999, which set a shortened statutory period for reply of three (3) months. Accordingly, the above identified application became abandoned on March 1, 2000.

Having found that all requirements for the filing of a grantable petition under 37 C.F.R. §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 this application, this application is again abandoned in favor of the Continued Prosecution Application filed with this Petition.

This application is being forwarded to Technology Center 3700 for processing on the Amendment and Continued Prosecution Application.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 22

FELIX J D'AMBROSIO
JONES TULLAR & COOPER
P O BOX 2266
EADS STATION
ARLINGTON, VA 22202

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AUG 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Toshiaki Kanemitsu et al	:	
Application No. 09/157,318	:	ON PETITION
Filed: September 21, 1998	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 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 October 24, 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 January 25, 2002.

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

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

The application file is being forwarded to Technology Center AU 3726.

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

MAR - 2 2004

Paper No. 28

In re Application of
Toshiaki Kanemitsu *et al*
Application No. 09/157,318
Filed: September 21, 1998
For: Method of Manufacturing An Annular Member Made From A Metal sheet Having A Peripheral Wall

DECISION ON PETITION

This is a decision on the petition filed on December 5, 2003 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated September 17, 2002. The petition is considered pursuant to 37 CFR 1.181, and no fee is required. Although a Notice of Abandonment was mailed on June 26, 2003, the petition is being treated as timely filed without the necessity for a terminal disclaimer. See 37 CFR 1.704(c)(4).

The petition is granted.

Petitioners allege that this application is not abandoned because a timely and proper reply to the Office letter in question, a final rejection, was in fact filed. Petitioners have supported this allegation by submitting a copy of the reply and a copy of a filing receipt for the reply that shows that it was received in the Office on December 17, 2002. The reply was proper because it was a Request for Continued Examination (RCE) filed under 37 CFR 1.114. The reply was timely because it included a request for an extension of time and authorized a charge for the extension fees. Based upon this showing, it is clear that this application is not abandoned. It is also noted that Office financial records show that the extension fee and the fee for the RCE have been charged. It is further noted that the amendment filed on December 17, 2002 with the RCE is of record in the application file and was the subject of an advisory action dated January 15, 2003.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications examiner for processing of the RCE filed on December 17, 2003. Thereafter the application will be forwarded to the examiner for action on the RCE.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Felix J. D'Ambrosio
Jones Tullar & Cooper
P. O. Box 2266
Eads Station
Arlington, VA 22202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6045707
Issue Date: April 4,2000
Application No. 09157920
Filed: September 21,1998
Attorney Docket No. R1226-228

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

This is a decision on the electronic petition, filed April 2,2010 ,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 April 2,2010 .
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)
6045707	2000-04-04	09157920	1998-09-21	R-1226-230

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark Levy/	Date (YYYY-MM-DD)	2010-04-01
Name	Mark Levy	Registration Number	29188

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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
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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JUN - 3 2002

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

#22

In re Application of	:
Kwok On Lai et al.	:
Serial No.:09/157,984	:PETITION DECISION
Filed: September 22, 1998	:
Attorney Docket No.: 007198-353	:

This is in response to applicants' petition under 37 CFR 1.181, filed February 6, 2002, 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 September 24, 2001, setting a one month shortened statutory period for reply. After receiving no reply a Notice of Abandonment was mailed to applicants on January 2, 2002. Applicants state that they filed a reply to the Office action on October 24, 2001 Applicant provides a copy of the response including an Office date-stamped postcard indicating receipt on October 24, 2002. Based on the evidence presented it is concluded that applicant did file a timely reply. The original reply has now been located and processed by the Office. In view thereof the Notice of Abandonment mailed January 2, 2002 is vacated and the application is restored to 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 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.

for Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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CECCHI STEWART & OLSTEIN
6 BECKER FARM ROAD
ROSELAND, NJ 07068

COPY MAILED

MAR 2 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Leslie Sid Johnson	:	
Application No. 09/158,120	:	NOTICE
Filed: September 21, 1998	:	
Attorney Docket No. 469201-367	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The Change of Correspondence Address filed March 5, 2004 is noted and made of record.

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

This matter is being referred to Technology Center AU 1648.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 2023
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Paper No. 33

OPPENHEIMER WOLFF AND DONNELLY
2029 CENTURY PARK EAST, SUITE 3800
LOS ANGELES, CA 90067

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MAR 1 7 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Steven Craig Weirather et al :
Application No. 09/158,308 :
Filed: September 22, 1998 :
Attorney Docket No. 310048-401 :

This is a decision on the petition, filed March 14, 2003, which is being treated as a petition 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 February 3, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

After receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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[1] The request to apply the issue fee to the new Notice 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS
7TH FLOOR
LOS ANGELES CA 90067

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of :
Weirather et al. : DECISION ON PETITION
Application No. 09/158,308 :
Filed: September 22, 1998 :
Attorney Docket No.67134-5022 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed October 25, 2006.

The petition is **DISMISSED AS MOOT**.

A review of the record confirms that a non-final Office action was mailed in the above-identified application on March 2, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). On June 5, 2006 (certificate of mailing June 2, 2006), applicants timely responded with the filing of a non-final amendment. However, by Notice of Non-Compliant Amendment (37 CFR 1.121) mailed July 20, 2006, applicants were advised that the amendment needed correction. This Notice set the longer period of one month for reply, with extensions of time obtainable under 1.136(a). On October 25, 2006, applicants filed a response, made timely by an accompanying petition (and fee) for extension for response within the third month.

In view thereof, this application is not abandoned.

As consideration of the petition under 1.137(b) is unnecessary, no petition fee has been charged.

Technology Center AU 1734 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for consideration in due course of the response filed October 25, 2006.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
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, DC 20231
www.uspto.gov

SEP - 6 2001

In re Application of
Steven Craig Weirather, Brian R. McCarthy,
Sunjay Yedehalli Mohan, Charles Thurmond Patterson,
Tony Lee Scroggs, Patricia L. Cross
and Arthur B. Moore

#19

Serial Number: 09/158,728
Filed: September 22, 1998
For: DRY LAMINATED BUSINESS CARD SHEET CONSTRUCTION

DECISION ON PETITION

This is a decision on the PETITION FOR SUSPENSION OF ACTION PURSUANT TO 37 C.F.R. 1.103, filed July 9, 2001. The request states that a four (4) month suspension of prosecution is necessary for the applicant to receive and analyze the Examiner's next action, and particularly any new-cited art or new interpretation of art currently of record, in related and concurrently-filed method application Serial No. 09/158,308.

DECISION

The instant petition is before the Director of Technology Center 1700 for decision, pursuant to MPEP 709 and 1003. The review of the file record indicates that the request for suspension cannot be granted. Specifically, 37 C.F.R. 1.103(a) states:

> "(a) Suspension of action by the Office will be granted for **good and sufficient cause** and for a reasonable time specified upon petition by the applicant..." (Emphasis added)

The reason given by the petitioner, i.e., "to receive and analyze the Examiner's next action, and particularly any new-cited art or new interpretation of art currently of record...", is insufficient to justify a suspension of the examiner's consideration of the instant application. The reasons set forth by applicant are conclusory in nature and fail to establish that the merits of this application are dependent upon the merits of co-pending application Serial Number 09/158,308.
The application shall be forwarded to the examiner for examination consistent with 37 C.F.R. 1.102(a)

(MPEP 708). An office action shall follow in due course.

The Petition is <u>DENIED</u>.

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

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

Douglas N. Larson
Oppenheimer Wolff & Donnelly LLP
2029 Century Park East, 38th Floor
Los Angeles, California 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6160483
Issue Date: December 12,2000
Application No. 09159295
Filed: September 23,1998
Attorney Docket No. 070-003

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

This is a decision on the electronic petition, filed October 19,2009 ,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 19,2009 . 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)
6160483	2000-12-12	09159295	1998-09-23	

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Derek J. Westberg/	Date (YYYY-MM-DD)	2009-10-19
Name	Derek J. Westberg	Registration Number	40872

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

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

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

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

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

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

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

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

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

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

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

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DAVIS WRIGHT TREMAINE LLP -
SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

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AUG 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Sau C. Wong	:	DECISION ON PETITION
Application No. 09/159,397	:	
Filed: September 23, 1998	:	
Attorney Docket No. **SNDK.195US0**	:	

This is a decision on the petition filed February 28, 2007 under 37 C.F.R. § 1.181 & MPEP § 1002.02(c)(3)(c), and alternatively under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **DISMISSED**.
The petition to revive under 37 CFR 1.137(b) is **GRANTED**.

In response to a Notice of Allowance mailed September 12, 2005, the issue fee transmittal was timely submitted on December 12, 2005 (December 9, 2005 certificate of mail date) however the issue fee transmittal was not accompanied by a check for the fees and neither did it contain an authorization to charge the issue fee and publication fee to a deposit account or credit card and thus the application became abandoned. Accordingly a Notice of Abandonment was mailed February 21, 2006.

Petitioner argues that the transmittal contained sufficient information about the firm of record to identify the deposit account. While petitioner's arguments have been considered they are not persuasive. It is the responsibility of the deposit account owner to identify the deposit account or provide some other method of payment. The issue fee was not timely paid and in view thereof, the showing of record is insufficient to warrant withdrawal of the holding of abandonment.

With respect to the petition to revive, the petition fee in the amount of $1500.00 has been charge to deposit account 50-2664 as authorized in the petition. 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 may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DIW Dec-05

Paper No. 12

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Aguilar et al.	:	
Application No. 09/159,481	:	DECISION ON PETITION
Filed: 23 September, 1998	:	
Atty Docket No. 8183-019-999	:	

This is a decision on the petition filed on 29 December, 2004, under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

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

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

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

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

The Office apologizes for the delay in responding to the present petition.

The petition is **GRANTED**.

The application became abandoned on 26 September, 2003, for failure to timely submit a reply to the non-final Office action mailed on 25 June, 2003, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 10 March, 2004.

Petitioner has filed a request for reconsideration as the required reply to the Office action.

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 revocation and power of attorney by assignee filed with the present petition cannot be accepted because petitioner has not provided documentary evidence of the chain of title from assignee of record Voxware, Inc. ("Voxware") to Ascend Communications, Inc. ("Ascend") The showing of record is that the application was assigned by applicants to Voxware and that Ascend, *et al.*, was acquired by putative assignee Lucent Technologies, Inc. Petitioners must provide a documentary showing that Voxware was acquired by Ascend.

MPEP 324 states, in pertinent part:

> In order to request or take action in a patent or trademark matter, the assignee must establish its

---

[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), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

> ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or
> (ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

The change of correspondence address filed on 29 December, 2004, cannot be accepted because it was not signed by an attorney of record.[3] 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 mailed. 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.

It is noted that petitioners have submitted a five (5) month extension of time with the present petition. In this regard, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[4] As the extension of time filed on 29 December, 2004, was filed after the maximum extendable period for reply to the Notice mailed on 25 June, 2003, the fee is unnecessary. As such, the $2,610.00 paid on 29 December, 2004, will be credited to counsel's deposit account, No. 08-0750.

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[3] See MPEP §§ 601.03 and 405.

[4] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

This application is being referred to Technology Center 2600 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: John E. Curtin
P.O. Box 8910
Reston VA 20195

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

Paper No. 11

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DAN R CHRISTEN
CONLEY ROSE & TAYON PC
PO BOX 398
AUSTIN TX 78767-0398

In re Reissue Application of
Browning et al.
Reissue Application No. 09/159,509
Filed: September 28, 1998
Original Patent No. 5,559,995
Issue Date: September 24, 1996
For: METHOD AND APPARATUS FOR CREATING A WIREFRAME AND POLYGON VIRTUAL WORLD

DECISION ACCORDING STATUS

This is a decision on the renewed petition under 37 CFR 1.47(a) March 6, 2000.

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.

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

This reissue file is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Enclosure: Corrected Filing Receipt

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

Paper No. 12

Albert P. Durigon
20 Eustis Street
Cambridge, MA 021402387

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JAN 2 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Troy G. Anderson	:	
Application No. 09/159,520	:	ON PETITION
Filed: September 23, 1998	:	
Attorney Docket No. HW-106-CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 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 August 14, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 15, 2002.

The request for a CPA is being treated as a request for continued examination (RCE) under 37 CFR 1.114.

The application file is being forwarded to Technology Center AU 2644, for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

Albert P. Durigon
20 Eustis Street
Cambridge, MA 02140-2387

In re Application of	:	
Troy G. Anderson	:	
Application No. 09/159,520	:	ON PETITION
Filed: September 23, 1998	:	
Attorney Docket No. HW-106-CIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 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 August 14, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 15, 2002.

The application file is being forwarded to Technology Center AU 2644, for processing the Continued Prosecution Application (CPA) filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
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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www.uspto.gov

ALBERT PETER DURIGON
20 EUSTIS STREET
CAMBRIDGE MA 02140-2387

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APR 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Anderson, et al.	:	DECISION
Application No. 09/159,520	:	ON PETITION
Filed: September 23, 1998	:	
Attorney Docket No. HW-106-CIP	:	
For: DIGITAL SOUND RELAXATION AND SLEEP-INDUCING SYSTEM AND METHOD		

This is a decision on the correspondence filed on April 16, 2004, which is being treated as a request for clarification of the record and a petition under 37 CFR 1.137(b) for revival of the above-identified application.

The decision on petition mailed January 28, 2004 is **vacated**.

The petition under 37 CFR 1.137(b) is **dismissed**.

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

This application became abandoned for failure to timely reply to the non-final Office action, mailed August 14, 2002, which set an extendable three month period for reply. No extensions of time having been obtained, the application became abandoned on November 15, 2002 for failure to reply. A Notice of Abandonment was mailed on March 26, 2003.

Petitioners filed a petition under 37 CFR 1.137(b) on January 7, 2004. Latrice Bond, formerly of the Office of Petitions, mailed a decision on January 28, 2004 that granted the petition and revived the application. Petitioners' reply, a CPA, was treated as a RCE.

Ms. Bond was correct in treating the CPA as a RCE because the CPA was improper. CPA practice was eliminated as of July 14, 2003. MPEP 201.06(d)(I)

As stated in MPEP201.06(d)(I)(A), "If a utility... application has a filing date on or after June 8, 1995, an improper CPA filed on or after July 14, 2003 will be treated as a request for continued examination (RCE) under 37 CFR 1.114.... If the improper CPA does not satisfy the requirements of 37 CFR 1.114 (e.g.... the prosecution of the application is not closed), the Office will treat the improper CPA as an improper RCE."

Therefore, the improper CPA was correctly treated as a RCE by Ms. Bond and the February 12, 2004 Notice of Improper Request for Continued Examination (RCE) correctly pointed out that RCE provisions do not apply to an application unless prosecution is closed. The prosecution in this application was not closed. Since there was no preliminary amendment filed with the January 7, 2004 CPA, there was nothing to be considered under 37 CFR 1.111.

The January 28, 2004 decision granting the petition should have been a dismissal because no proper reply was submitted. The January 28, 2004 decision is hereby **vacated**.

It appears Ms. Bond subsequently mailed another decision on petition that granted the January 7, 2004 petition to revive and cited the CPA as the reply, as opposed to the treating the CPA as a RCE. This decision was never entered into Office PALM databases. The later decision was also decided incorrectly, as explained above.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

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

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

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

The instant petition does not satisfy requirement (1) above.

Petitioner has still not submitted an acceptable reply to the August 14, 2002 non-final Office action. Either an amendment in response to the Office action or a continuing application under 37 CFR 1.53(b) would be a proper reply.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALBERT PETER DURIGON
20 EUSTIS STREET
CAMBRIDGE MA 02140-2387

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APR 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Anderson, et al.	:	DECISION
Application No. 09/159,520	:	ON PETITION
Filed: September 23, 1998	:	
Attorney Docket No. HW-106-CIP	:	
For: DIGITAL SOUND RELAXATION AND SLEEP-INDUCING SYSTEM AND METHOD		

This is a decision on the reconsideration petition filed on September 6, 2005 (certificate of mailing date September 2, 2005), under 37 CFR 1.137(b) for revival of the above-identified application.

The petition under 37 CFR 1.137(b) is **granted**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed August 14, 2002, which set an extendable three month period for reply. No extensions of time having been obtained, the application became abandoned on November 15, 2002 for failure to reply. A Notice of Abandonment was mailed on March 26, 2003.

Petitioner has submitted an amendment in reply to the August 14, 2002 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 14, 2002 non-final Office action, and the petition fee. Therefore, the petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 2615 for consideration of the amendment filed on September 6, 2005 (certificate of mailing date September 2, 2005).

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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ALBERT PETER DURIGON
20 EUSTIS STREET
CAMBRIDGE MA 02140-2387

In re Application of
Anderson, et al.
Application No. 09/159,520
Filed: September 23, 1998
Attorney Docket No. HW-106-CIP
For: DIGITAL SOUND RELAXATION AND SLEEP-INDUCING SYSTEM AND METHOD

DECISION ON PETITION

This is a decision on the reconsideration petition filed on September 6, 2005 (certificate of mailing date September 2, 2005), under 37 CFR 1.137(b) for revival of the above-identified application.

The petition under 37 CFR 1.137(b) is **granted**.

This application became abandoned for failure to timely reply to the non-final Office action, mailed August 14, 2002, which set an extendable three month period for reply. No extensions of time having been obtained, the application became abandoned on November 15, 2002 for failure to reply. A Notice of Abandonment was mailed on March 26, 2003.

Petitioner has submitted an amendment in reply to the August 14, 2002 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the August 14, 2002 non-final Office action, and the petition fee. Therefore, the petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 2615 for consideration of the amendment filed on September 6, 2005 (certificate of mailing date September 2, 2005).

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW
WASHINGTON, DC 20036

In re Application of	: DECISION REFUSING STATUS
Barry, et al.	: UNDER 37 CFR 1.47(a)
Application No. 09/159,695	:
Filed: September 24, 1998	:
Atty. Dkt.: COS-97-087	:

This decision is in response to the petition under 37 CFR 1.47(a), filed December 12, 2003.

The petition under 37 CFR 1.47(a) is hereby **DISMISSED**.

The above-identified application was filed September 24, 1998. An executed declaration names B. Barry, M. Chodoronek, E. Derose, M. Gonzales, A. James, L. Levy, and M. Tusa as joint inventors. Petitioner herein seeks to correct the inventive entity of this application to add inventor C. Devine as a joint inventor.

The first executed oath or declaration filed establishes the inventive entity of an application. Moreover, the provisions of 37 CFR 1.47 are only applicable to original oaths or declarations. Further, the provisions of 37 CFR 1.47 may not be utilized for the purposes of correcting an error in inventorship made without deceptive intent. *See*, 37 CFR 1.41(a)(1), 37 CFR 48(f)(1), and MPEP 201.03.

Wherein an original executed oath or declaration has been submitted and it is later determined that the original executed oath or declaration failed to set forth the correct inventive entity and this error in inventorship was made without deceptive intent, a petition under 37 CFR 1.48 may be filed. A petition under 37 CFR 1.47 filed in conjunction with a petition under 37 CFR 1.48 would be appropriate wherein an inventor that was not named in the original executed oath or declaration refuses to execute the amended oath or declaration in accordance with 37 CFR 1.63.

The provisions of 37 CFR 1.47 cannot be utilized for the purposes of correcting an error in inventorship in an original executed oath or declaration wherein an inventor that executed the original oath or declaration thereafter refuses to sign or cannot be located to sign the amended oath or declaration. *See*, MPEP 201.03(B) for further guidance.

A fully executed declaration exists in the instant application. Accordingly, a petition under 37 CFR 1.47(a) is deemed inappropriate and subject to dismissal. No further consideration under the provisions of 37 CFR 1.47 will be forthcoming.

Petitioner is advised to submit a petition under 37 CFR 1.48 to add an inventor to the application. The inventorship of an application may be amended under the provisions of 37 CFR 1.48. If the inventive entity is set forth in error in an oath or declaration executed under to 37 CFR 1.63 and the error arose without any deceptive intent on the part of the person named as an inventor in error or on the part the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

Correction of inventorship pursuant to 37 CFR 1.48(a) requires the following: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR §§ 1.42, 1.43 or 1.47; (4) the processing fee set forth in 37 CFR 1.17(I); and (5) if an assignment has been executed by any of the original inventors, the written consent of the assignee.

The petition under 37 CFR 1.48 should be accompanied by a petition under 37 CFR 1.183, if deemed appropriate, requesting waiver of the requirements of 37 CFR 1.48(a)(3). A petition under 37 CFR 1.183 must be accompanied by the required petition fee and an oath or declaration complying with 37 CFR 1.63. The available inventor(s) should execute the oath or declaration. A petition under 37 CFR 1.183 should include sufficient evidence that the non-signing inventor(s) is indeed unavailable after diligent efforts to locate him and present the declaration, or, after having sufficient time and access to the application papers (specification, including claims, drawings, and oath or declaration), the request under Rule 48 made to the inventor(s)

failed. *See*, MPEP 201.03(b) and MPEP 201.03(c). Petitioner may wish to incorporate by reference the facts and circumstances outlined in the instant petition in the petition under 37 CFR 1.183.

Petitioner is given **TWO (2) MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition," and should only address the deficiencies noted herein. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand:	Office of Petitions 2201 South Clark Place Crystal Plaza 4, Suite 3C23 Arlington, VA 22202
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office 2011 South Clark Place Customer Window, **Mail Stop Petition** Crystal Plaza Two, Lobby, Room 1B03 Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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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Paper No. 47

WORLDCOM, INC.
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW
WASHINGTON, DC 20036

COPY MAILED
JUL 2 6 2004
OFFICE OF PETITIONS

In re Application of :
Barry, et al. : DECISION ON PETITION
Application No. 09/159,695 :
Filed: September 24, 1998 :
Atty. Dkt.: COS-97-087 :

This decision is in response to the "RENEWED PETITIONS UNDER 37 CFR 1.48(a) AND 37 CFR 1.47(a)," filed June 8, 2004.

The above-identified application was filed September 24, 1998. An executed declaration naming B. Barry, M. Chodoronek, E. Derose, M. Gonzales, A. James, L. Levy, and M. Tusa as joint inventors. Petitioner herein seeks to correct the inventive entity of this application to add inventor C. Devine as a joint inventor. A petition under 37 CFR 1.47(a) was filed December 12, 2003 and dismissed April 7, 2004.

DECISION UNDER 37 CFR 1.47(a)

The petition under 37 CFR 1.47(a) is hereby **DISMISSED**.

The first executed oath or declaration filed establishes the inventive entity of an application. The provisions of 37 CFR 1.47 are only applicable to original oaths or declarations. The provisions of 37 CFR 1.47 may not be utilized for the purposes of correcting an error in inventorship made without deceptive intent. *See*, 37 CFR 1.41(a)(1), 37 CFR 48(f)(1), and MPEP 201.03.

Wherein an original executed oath or declaration has been submitted and it is later determined that the original executed oath or declaration failed to set forth the correct inventive entity and this error in inventorship was made without deceptive intent, a petition under 37 CFR 1.48 may be filed. A petition under 37 CFR 1.47 filed in conjunction with a petition under 37 CFR 1.48 would be appropriate wherein an inventor that was not named in the original executed oath or declaration refuses to

execute the amended oath or declaration in accordance with 37 CFR 1.63.

For example and as set forth at MPEP 201.03, a petition under 37 CFR 1.47 would be appropriate where A, B, and C were originally named as inventors and D who refuses to cooperate is to be later added as an inventor. Only the oath or declaration under 37 CFR 1.63 of inventor D may be supplied pursuant to 37 CFR 1.47(a).

The provisions of 37 CFR 1.47 **cannot** be utilized for the purposes of correcting an error in inventorship in an original executed oath or declaration wherein an inventor that executed the original oath or declaration thereafter refuses to sign or cannot be located to sign the amended oath or declaration (e.g., inventors A, B, and C in the example set forth above). *See*, MPEP 201.03(B) for further guidance.

A fully executed declaration exists in the instant application. Thus a petition under 37 CFR 1.47(a) is inappropriate and without merit because the inventor sought to be added, i.e., C. Devine, has executed the declaration in compliance with 37 CFR 1.63 and 1.64.

DECISION UNDER 37 CFR 1.48

The petition under 37 CFR 1.48 is hereby **DISMISSED**.

Correction of inventorship pursuant to 37 CFR 1.48(a) requires the following: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR §§ 1.42, 1.43 or 1.47; (4) the processing fee set forth in 37 CFR 1.17(I); and (5) if an assignment has been executed by any of the original inventors, the written consent of the assignee.

The petition lacks the required oath or declaration executed by each of the actual inventors as required under 37 CFR 1.63. As previously indicated, petitioner cannot available himself to the provisions of 37 CFR 1.47 to permit the application to be prosecuted without a declaration signed by each of the inventor named in the application as a properly executed declaration was previously submitted November 30, 1998.

Petitioner seeks to correct the inventorship of the instant application pursuant to 37 CFR 1.48. Petitioner alleges inability to procure the signatures on of inventors E. Derose, M Gonzales, and L. Levy on the required declaration. Without a fully executed oath or declaration in compliance with 37 CFR 1.63, petitioner cannot prevail under 37 CFR 1.48.

ALTERNATE REMEDY

If deemed appropriate and as stated in the decision on petition mailed April 7, 2004, to correct the inventorship in the instant application, petitioner should consider doing as follows:

(1) re-submitting the petition under 37 CFR 1.48; and
(2) submitting a petition under 37 CFR 1.183 (and required petition fee) requesting waiver of the requirements of 37 CFR 1.48(a)(3). A petition under 37 CFR 1.183 must be accompanied by the required petition fee and an oath or declaration complying with 37 CFR 1.63 executed by the available inventors[1]. The available inventor(s) should execute the oath or declaration. A petition under 37 CFR 1.183 should include sufficient evidence that the non-signing inventors are indeed unavailable after diligent efforts to locate them and present the declaration, or, after having sufficient time and access to the application papers (specification, including claims, drawings, and oath or declaration), the request under Rule 48 made to the inventors failed. *See*, MPEP 201.03(b) and MPEP 201.03(c).

Petitioner is given **TWO (2) MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition," and should only address the deficiencies noted herein. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

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

By mail: **Mail Stop Petition**
Commissioner for Patents

[1] Petitioner is advised to submit a new oath or declaration executed by the available inventors. Non-initialed and/or non-dated alterations have been made to the oath or declaration submitted December 12, 2003. *See*, 37 CFR 1.52(c).

P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By delivery service: (FedEx, UPS, DHL, etc.)
U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
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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MCI, INC
TECHNOLOGY LAW DEPARTMENT
1133 19TH STREET NW, 10TH FLOOR
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING
Barry, et al.	: PETITION UNDER 37 CFR
Application No. 09/159,695	: 1.183 and GRANTING
Filed: September 24, 1998	: PETITION UNDER 37 CFR
Atty. Dkt. COS-97-087	: 1.48

This decision is in response to the petition renewed under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(3) and the petition under 37 CFR 1.48, filed August 9, 2004.

The above-identified application was filed September 24, 1999. An executed declaration naming B.R. Reilly, M.A. Chodoronek, E. Derose, M.N. Gonzales, A.R. James, L. Levy, and M. Tusa as joint inventors. Petitioners herein seeks to correct the inventive entity of this application by adding CAROL Y. DEVINE as a joint inventor.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 provide that "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

Petitioners seek to correct the inventive entity in the instant application by submitting a petition under 37 CFR 1.48. Petitioner is required under 37 CFR 1.48(a)(3) to submit an oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§ 1.42, 1.43 or § 1.47. Petitioners are unable to comply with this requirement because three of the original inventors have either refused to sign the supplemental declaration or cannot be reach or located to sign the supplemental declaration.

Petitioners have established that inventors E. Derose, M. N. Gonzales, and L. Levy have refused to execute the supplemental

declaration for the above-identified application or cannot be reached or locate the supplemental declaration.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(3) is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.48

In view of the papers filed December 12, 2003, June 8, 2004, and August 9, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48. The inventorship of this application has been changed by adding CAROL Y. DEVINE as a joint inventor.

Accordingly, the petition under 37 CFR 1.48 is hereby **GRANTED**.

Enclosed please find a corrected filing receipt whereupon the requested addition of inventor can be noted.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES 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. 19

MAIL

MAY 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

James H. Morris
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, MA 02210

In re Application of:
Geoff BARRETT
Application No. 09/159,748
Filed: September 23, 1998
For: METHOD AND APPARATUS FOR RESTRUCTURING A BINARY DECISION DIAGRAM

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in response to the petition filed April 12, 2004 under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file an appeal brief after filing a Notice of Appeal. The Notice of Appeal was received in the U.S. Patent and Trademark Office on August 06, 2003. The Notice of Abandonment was mailed on February 25, 2004.

A review of file record indicates that both the original RCE and the five (5) months extension of time filed March 05, 2004 were in the file. A notice of improper request for RCE was mailed on March 31, 2004 to inform applicant that the request for RCE was not filed before abandonment of the application.

The application should not become abandoned before March 07, 2004 (i.e., seven months after receiving the Notice of Appeal). The mailing of Notice of Abandonment on February 25, 2004 was premature.

Petitioner has established that a timely and proper RCE was filed. The Notice of Abandonment and the Notice of Improper request for RCE are hereby withdrawn.

The application file is being forwarded to Technology Center support staff to process and enter the RCE filed March 05, 2004. From there, the application file will be forwarded to examiner for appropriate Office action.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01-15-09

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/159945 Patent No.: 6015815

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

- [x] **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 1624

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

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JAN 29 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Toshiro Akira :
Application No. 09/159,968 :
Filed: September 24, 1998 :
Attorney Docket No. F-6026 :

ON PETITION

This is a decision on the petition, filed January 29, 2001, under 37 CFR 1.313(c)(3) 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 in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

The application is hereby withdrawn from issue.

Petitioner is advised that the issue fee paid on November 22, 2000 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed January 29, 2001.

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

The application is being forwarded to Technology Center 2700 for processing of the CPA.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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)
6050181	2000-04-18	09/160,391	1998-09-25	CAN002USPT01

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/M. Sherrill/	Date (YYYY-MM-DD)	2010-03-30
Name	Michael S. Sherrill	Registration Number	32302

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6050181
Issue Date: April 18,2000
Application No. 09160391
Filed: September 25,1998
Attorney Docket No. ZNK002USPT02

:
: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 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 30,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 2 0 2001

Technology Center 2100

Paper No. 15

David Lewis
Carr & Ferrell LLP
2225 E. Bayshore Road, Suite 200
Palo Alto, California 94303

In re Application of: Richard D. Cappels et al.	)	
Application No. 09/160,503	)	**DECISION ON PETITION**
Filed: September 24, 1998	)	**UNDER 37 CFR § 1.181 TO**
For: APPARATUS AND METHOD FOR	)	**INVOKE SUPERVISORY**
HANDLING SPECIAL WINDOWS	)	**AUTHORITY**
IN A DISPLAY	)	

This is a decision on the petition under 37 CFR §1.104, filed November 30, 2000, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the finality of the Office action (Paper No. 9) mailed on July 27, 2000.

CASE HISTORY

Petitioners filed a proposed response to Paper No. 9 on October 30, 2000 (Paper No. 10). In the proposed response, petitioners contended that the Finality was premature and presented arguments traversing the rejections of record. The Examiner responded to applicants arguments with an Advisory action (Paper No. 11) on November 09, 2000 and did not withdraw the finality of the previous Office action (Paper No. 9).

Petitioner filed the instant petition on November 30, 2000 contending that the final rejection issued by the Examiner in Paper No. 9 failed to address petitioners argument between pages 11-13 of his remarks filed June 12, 2000 (Paper No. 8).

RELIEF REQUESTED

The instant petition treated under 37 CFR §§ 1.181 requests the following relief:

A. Withdrawal of the Finality of the rejection of claims 5-10, 12, 25-30, 32, and 41-43 contained in Paper No. 9.

B. Issuance of a new Office action explaining the new position of the Examiner.

OPINION

Whether the Examiner has established a prima facie case of obviousness and whether the rejections over art are correct are appealable issues not subject to petition. 37 CFR §§ 1.181(a) states:

§ 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. For petitions in interferences, see § 1.644. (***Emphasis added***)

Thus, the correctness of the art rejections is not subject to review by Petition. Therefore, all remedies requested hinge solely on the determination of the propriety of the finality of Paper No. 9.

A careful reading of the final rejection indicates the Examiner has fully developed a position on the issues in the action. Furthermore, the issues have been presented to Petitioner in multiple Office communications before and including the final rejection. Further, the examiner has clearly set forth his rejection of claims 5-10, 12, 25-30, 32, and 41-43 including reasons for motivation on pages 7-11 of the Final office action (Paper No. 9).

The examiner's holding of Finality with respect to the rejections of record in Paper No. 9, is correct and consistent with Office policy and practice. Accordingly, the Petition is **DENIED**.

If the petitioner desires further review of the Director's Decision, applicant should consider filing a Petition for Review of the Director's Decision under 37 CFR §1.181(a)(3).

Margaret A. Focarino

Margaret A. Focarino, Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

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JJGJr.: 08-02

Paper 23

CARR & FERRELL, LLP
2225 EAST BAYSHORE ROAD/STE. 200
PALO ALTO, CA 94303

COPY MAILED

AUG 13 2002

OFFICE OF PETITIONS

In re Application of
Cappels, et al.
Application No. 09/160,503
Filed: 24 September, 1998
Attorney Docket No.: P2267/1021

ON PETITION

This is a decision on the pleadings filed on 5 March, 2001, and styled "Petition of the Decision on Petition Under 37 C.F.R. §1.181(a)(3)," seeking to overturn the 25 January, 2001, decision of the Group Director, and considered, *inter alia*, under 37 C.F.R. §1.181.[1]

Unfortunately, the pleadings were not matched with the file until this writing. The Office regrets the delay in addressing this matter.

For the reasons set forth below, the petition under 37 C.F.R. §1.181 to overturn the Group Director's 25 January, 2001, decision (responding to a 30 November, 2000, petition) is **DISMISSED**.

NOTES: (1) The file contains a Notice of Change of Address, however, rather than simply notifying the Office of a relocation, the Notice purports to transfer prosecution authority. For this reason, on 7, 8 and 9 August, 2002, the Office contacted practitioners David Lewis (Mr. Lewis, Reg. No. 33,101) and Nancy Simon (Ms. Simon, Reg. No. 36,930) to request either a withdrawal from the former or a revocation and power of attorney from the latter, which materials each agreed to submit via FAX.

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[1] The regulations at 37 C.F.R. §1.181 provide, in pertinent part:

§1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner: (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court; (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. * * *

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Brief or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declaration (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, it may be required that there have been a proper request for reconsideration (§1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed. * * *

(f) Except as otherwise provided in these rules, any such petition not filed within 2 months from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings. * * * (Emphasis supplied.)

As of this writing those materials have not been submitted.

Out of an abundance of caution, the Office is mailing this decision to Mr. Lewis and providing a copy to Ms. Simon. However, both Counsel are cautioned that the appropriate notification must be filed with the Office in this matter, and the Office will not engage in double correspondence. (See: 37 C.F.R. §1.33.[2])

(2) This is the second consideration of issues addressed in the 30 November, 2000, and the 5 March, 2001, petitions, and Petitioner has addressed on appeal issues previously raised here. Therefore, there will be no further reconsideration in this matter on petition.

BACKGROUND

A review of the record reveals:

- the instant application was filed on 24 September, 1998;
- following a restriction requirement (7 January, 2000) and election (7 February, 2000):

--the Examiner entered a non-final rejection on 17 March, 2000;

--Petitioner filed an amendment on 14 June, 2000; and

--the Examiner entered a final rejection on 27 July, 2000, stating therein:

> . . . Claim (sic) 5-10, 12, 25-30, 32, 41-43 and 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLaughlin (pat. # 5,570,108) as applied to claim 4 above, and further in view of Shafer (pat. # 5,386,247).

Continuing, the Examiner first detailed his rejections at pages 7 through 11, and then

---

[2] The regulations at 37 C.F.R. §1.334 provide in pertinent part:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official let-ters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered attorney or agent, or with more than one registered attorney or agent except as deemed necessary by the Commissioner. If more than one correspondence address is specified, the Office will establish one as the correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. * * * (Emphasis supplied.)

responded to Petitioner's arguments at pages 12 through 15;

- on 30 October, 2000, Petitioner filed an after-final amendment, arguing therein, *inter alia*, that the Examiner failed to comply with the commentary at MPEP §707.07(f);[3]

- a 9 November, 2000, Advisory Action refused entry of the after-final amendment;

- on November 27, 2000, Petitioner sought the intervention of the Group Director, complaining that the Examiner's final rejection:

> . . . did not respond to the Applicants' remarks (filed [14 June, 2000], starting with the paragraph bridging pages 11 and 12 and ending with the paragraph bridging pages 12 and 13) regarding the rejection of claims 5-10, 12, 25-30, 32 and 41-43 over McLaughlin et al. as applied to claim 4 further in view of Shafer, despite the extra emphasis given to these arguments by again referring to them in the summary on page 14 of the response filed [14 June, 2000]. Consequently the Applicants respectfully submit that the Examiner has not complied with MPEP §707 and 707.07(f) and 37 C.F.R. §1.104,[4] thereby rendering the Office Action

---

[3] The commentary at MPEP§707.07(f) provides:

707.07(f) Answer All Material Traversed

Where the requirements are traversed, or suspension thereof requested, the examiner should make proper reference thereto in his or her action on the amendment.

Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it. If a rejection of record is to be applied to a new or amended claim, specific identification of that ground of rejection, as by citation of the paragraph in the former Office letter in which the rejection was originally stated, should be given.

ANSWERING ASSERTED ADVANTAGES

After an Office action, the reply (in addition to making amendments, etc.) may frequently include arguments and affidavits to the effect that the prior art cited by the examiner does not teach how to obtain or does not inherently yield one or more advantages (new or improved results, functions or effects), which advantages are urged to warrant issue of a patent on the allegedly novel subject matter claimed.

If it is the examiner's considered opinion that the asserted advantages are not sufficient to overcome the rejection(s) of record, he or she should state the reasons for his or her position in the record, preferably in the action following the assertion or argument relative to such advantages. By so doing the applicant will know that the asserted advantages have actually been considered by the examiner and, if appeal is taken, the Board of Patent Appeals and Interferences will also be advised. See MPEP § 716 *et seq.* for the treatment of affidavits and declarations under 37 C.F.R. 1.132.

The importance of answering applicant's arguments is illustrated by *In re Herrmann*, 261 F.2d 598, 120 USPQ 182 (CCPA 1958) where the applicant urged that the subject matter claimed produced new and useful results. The court noted that since applicant's statement of advantages was not questioned by the examiner or the Board of Appeals, it was constrained to accept the statement at face value and therefore found certain claims to be allowable. See also *In re Soni*, 54 F.3d 746, 751, 34 USPQ2d 1684, 1688 (Fed. Cir. 1995) (Office failed to rebut applicant's argument).

[4] The regulations at 37 C.F.R. §1.104 provide:

§1.104 Nature of examination.

(a) *Examiner 's action* .

(1) On taking up an application for examination or a patent in a reexamination proceeding, the examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the claimed invention. The examination shall be complete with respect both to compliance of the application or patent under reexamination with the applicable statutes and rules and to the patentability of the invention as claimed, as well as with respect to matters of form, unless otherwise indicated.

(2) The applicant, or in the case of a reexamination proceeding, both the patent owner and the requester, will be notified of the examiner 's action. The reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given as may be useful in aiding the applicant, or in the case of a reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution.

(3) An international-type search will be made in all national applications filed on and after June 1, 1978.

(4) Any national application may also have an international-type search report prepared thereon at the time of the national examination on the merits, upon specific written request therefor and payment of the international-type search report fee set forth in §1.21(e).The Patent and Trademark Office does not require that a formal report of an international-type search be prepared in order to obtain a search fee refund in a later filed international application.

(b)*Completeness of examiner 's action* .The examiner 's action will be complete as to all matters, except that in appropriate circumstances, such as

incomplete. It logically follows that an incomplete Office Action cannot properly be made final. The Applicants therefore respectfully request that the finality of the rejection be withdrawn and that either the rejection of the above-identified claims should be withdrawn or the Examiner should explain why he disagrees with the remarks of the Applicant's response of [14 June, 2000].[5]

- in a decision mailed on 25 January, 2001, the Group Director:

  -- reminded the Petitioner that the relief sought--i.e., the substantive issue requiring the withdrawal of finality of the 27 July, 2000, Office action--was available only through appeal to the Board of Patent Appeals and Interferences (BPAI), and not through petition to the Commissioner (37 C.F.R. §1.181); and

---

misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable.

(c) *Rejection of claims* .

(1) If the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected.

(2) In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

(3) In rejecting claims the examiner may rely upon admissions by the applicant, or the patent owner in a reexamination proceeding, as to any matter affecting patentability and, insofar as rejections in applications are concerned, may also rely upon facts within his or her knowledge pursuant to paragraph (d)(2)of this section.

(4) Subject matter which is developed by another person which qualifies as prior art only under 35 U.S.C. 102(e), (f) or (g) may be used as prior art under 35 U.S.C. 103 against a claimed invention unless the entire rights to the subject matter and the claimed invention were commonly owned by the same person or organization or subject to an obligation of assignment to the same person or organization at the time the claimed invention was made.

(5) The claims in any original application naming an inventor will be rejected as being precluded by a waiver in a published statutory invention registration naming that inventor if the same subject matter is claimed in the application and the statutory invention registration. The claims in any reissue application naming an inventor will be rejected as being precluded by a waiver in a published statutory invention registration naming that inventor if the reissue application seeks to claim subject matter:

(i) Which was not covered by claims issued in the patent prior to the date of publication of the statutory invention registration; and

(ii) Which was the same subject matter waived in the statutory invention registration.

(d) *Citation of references* .

(1) If domestic patents are cited by the examiner, their numbers and dates, and the names of the patentees will be stated. If domestic patent application publications are cited by the examiner, their publication number, publication date, and the names of the applicants will be stated. If foreign published applications or patents are cited, their nationality or country, numbers and dates, and the names of the patentees will be stated, and such other data will be furnished as may be necessary to enable the applicant, or in the case of a reexamination proceeding, the patent owner, to identify the published applications or patents cited. In citing foreign published applications or patents, in case only a part of the document is involved, the particular pages and sheets containing the parts relied upon will be identified. If printed publications are cited, the author (if any),title, date, pages or plates, and place of publication, or place where a copy can be found, will be given.

(2) When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

(e) *Reasons for allowance* . If the examiner believes that the record of the prosecution as a whole does not make clear his or her reasons for allowing a claim or claims, the examiner may set forth such reasoning. The reasons shall be incorporated into an Office action rejecting other claims of the application or patent under reexamination or be the subject of a separate communication to the applicant or patent owner. The applicant or patent owner may file a statement commenting on the reasons for allowance within such time as may be specified by the examiner. Failure by the examiner to respond to any statement commenting on reasons for allowance does not give rise to any implication.

[43 Fed. Reg. 20465, May 11, 1978; 46 Fed. Reg. 29182, May 29, 1981; para. (d), 47 Fed. Reg. 41276, Sept. 17, 1982, effective date Oct. 1, 1982; para.(e), 50 Fed. Reg. 9381, Mar. 7, 1985, effective May 8, 1985; para. (e), 57 Fed. Reg. 29642, July 6, 1992, effective Sept. 4, 1992; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (c)(4) revised, 65 Fed. Reg. 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 Fed. Reg. 50092, Aug. 16, 2000); paras. (a)(2) and (e) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (a)(5) removed and para. (d)(1) revised, 65 Fed. Reg. 57024, Sept 20, 2000, effective Nov. 29, 2000]

[5] Petitioner appears confused between a mail date under a certificate of mail (37 C.F.R. §1.8)--under which a paper/payment is considered timely filed if accompanied by a proper certificate--and a deposit with the US Postal Service Express Mail service (37 C.F.R. §1.10), which is considered the date of filing. While Petitioner repeatedly recites, for example, 12 June, 2000, as the date on which the amendment was "filed," the record clearly evidences that Petitioner's mail dates and dates of filing dates are not the same.

--therefore, denied the relief sought on petition;

- on 5 March, 2001, Petitioner sought review of the Group Director's decision through the instant petition under 37 C.F.R. §1.181.

STATUTES, REGULATIONS AND ANALYSIS

Congress has provided at 35 U.S.C. §(6)(a), in pertinent part, that:

> The Commissioner . . . may, subject to the approval of the Secretary of Commerce, establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent and Trademark Office.

Why?

Petitioner demands that the Office instruct the Group Director to instruct the Examiner to tell the Petitioner why Petitioner's claims are rejected. No one has answered the question, contends Petitioner, why there was or is maintained a rejection of:

- the substance of "claims 5-10, 12, 25-30, 32 and 41-43 over McLaughlin et al. as applied to claim 4 further in view of Shafer";
- the argument of the 14 June, 2000, amendment; and/or
- the after-final amendment.

The Examiner and the Group Director, says Petitioner, ignore the very rules of the game--i.e, the requirements of 37 C.F.R. §1.104 and §1.113,[6] and MPEP §707 and §707.07(f)--and won't tell Petitioner why Petitioner is not getting the decision Petitioner wants.

That reported, Petitioner's position is at odds with the record: As noted above at page 2, the Examiner detailed his response to Petitioner's 14 June, 2000, amendment.

---

[6] The regulations at 37 C.F.R. §1.113 provide:

§ 1.113 Final rejection or action.

(a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicants, or for *ex parte* reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 1.191), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section. For final actions in an *inter partes* reexamination filed under § 1.913, see §1.953.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.

(c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.

[24 Fed. Reg. 10332, Dec. 22, 1959; 46 Fed. Reg. 29182, May 29, 1981; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 Fed. Reg. 50092, Aug. 16, 2000); para. (a) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

Nonetheless, Petitioner was--and remains--unhappy with the bottom line of the Examiner's detailed response. To wit: No!

A review of 35 U.S.C. §(6)(a), 37 C.F.R. §1.104 and §1.113, and MPEP §707 and §707.07(f) reveals that at no place in the statute, regulations or MPEP commentary is there a requirement that the Petitioner be happy with the result. All that is required is that the result be consistent with statute, regulations and policy.

A review of the record does not suggest that either the Examiner failed in this regard, or the Group Director failed to correct such an error on the part of the Examiner.

Rather, the Examiner had to detail his rejections and his reasons, and did so, and the Group Director found that:

- the Examiner's rejections and reasons satisfied statute and regulations, and were consistent with published policy; and
- the relief Petitioner sought was not proper in the premises.

CONCLUSION

For the foregoing reasons, the petition of 5 March, 2001, under 37 C.F.R. §1.181 must be and hereby is **dismissed**.

The instant application is being forwarded to Technology Center 2100 for further processing in due course.

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

cc: NANCY R. SIMON
SIMON & KOERNER LLP
10052 PASADENA AVENUE/SUITE B
CUPERTINO CA 65014

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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NANCY R. SIMON
SIMON & KOERNER LLP
10052 PASADENA AVENUE
SUITE B
CUPERTINO CA 65014

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APR 30 2007

OFFICE OF PETITIONS

In re Application of :
Cappels, et al. : DECISION ON PETITION
Application No. 09/160,503 :
Filed: September 24, 1998 :
For: P2267/PA1021 :

This is a decision on the petition renewed under 37 CFR 1.137(b), filed March 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed April 25, 2006. The Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed March 19, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) 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).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

The Notice of Appeal has been entered and made of record. The two-month period for filing an appeal brief (accompanied by the

fee required by 37 CFR 1.17(c)), runs from the date of this decision.

This application will be forwarded to Technology Center 2100 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/160,503	09/24/1998	RICHARD D. CAPPELS SR.	P2267/PA1021	6429

7590 06/28/2007
NANCY R. SIMON
19925 STEVENS CREEK BOULEVARD
CUPERTINO, CA 95014-2358

EXAMINER
TRAN, MYLINH T

ART UNIT	PAPER NUMBER
2179	

MAIL DATE	DELIVERY MODE
06/28/2007	PAPER

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

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

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NANCY R. SIMON
SIMON & KOERNER LLP
[redacted]
[redacted]5014

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[redacted] 6/28/07
OFFICE OF PETITIONS

In re Application of :
Cappels, et al. : DECISION ON PETITION
Application No. 09/160,503 :
Filed: September 24, 1998 :
For: P2267/PA1021 :

This is a decision on the petition renewed under 37 CFR 1.137(b), filed March 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed April 25, 2006. The Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed March 19, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) 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).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

The Notice of Appeal has been entered and made of record. The two-month period for filing an appeal brief (accompanied by the

fee required by 37 CFR 1.17(c)), runs from the date of this decision.

This application will be forwarded to Technology Center 2100 for further processing.

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

Alesia M. Brown
Petitions Attorney
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, DC 20231
www.uspto.gov

Paper No. 19

Flehr Hohbach Test Albritton & Herbert LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111

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FEB 1 9 2002

OFFICE OF PETITIONS

In re Application of
Vernon Wong, et al.
Application No. 09/160,635
Filed: September 24, 1998
Attorney Docket No. A-60179-2/DJ

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2002 (Certificate of Mailing dated November 15, 2001), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 10, 2001, which set a shortened statutory period for reply of three (3) months. A three(3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 11, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1617 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

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

Sherry Brinkley
Petitions Examiner

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Paper No. 31

MORRISON & FOERSTER
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of
Vernon Wong et al
Application No. 09/160,635
Filed: September 24, 1998
Attorney Docket No. 440882001201

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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

This file is being forwarded to Technology Center AU 1617.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 13

Darby & Darby P.C.
Post Office Box 5257
New York, NY 10150-5257

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OFFICE OF PETITIONS

In re Application of :
Kazuya Kuriyama, et al. :
Application No. 09/160,665 : ON PETITION
Filed: September 25, 1998 :
Attorney Docket No. M1866-18 :

This is a decision on the petition under 37 CFR 1.137(b), filed on June 11, 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 May 21, 2001, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 22, 2001.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to 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 1700, Art Unit 1725.

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

Sherry Brinkley
Petitions Examiner

cc: Tom Morrison
Darby & Darby
805 Third Avenue
New York, NY 10022-7513

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. 17

William C. Boling
Jaquez & Associates
750 B. Street, Suite 2640
San Diego, CA 92101

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SEP 2 5 2002

OFFICE OF PETITIONS

In re Application of
Jerzy Lewak
Application No. 09/160,728
Filed: September 25, 1998
Attorney Docket No. NISUS-002-PA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed September 4, 2001, which set a reply period of (1) ONE MONTH or (30) days from the mail date of the Notice whichever is longer, within which to reply. A one-month extension of time was mailed on March 8, 2002. Accordingly, a Notice of Abandonment was mailed on March 28, 2002.

The file is being forwarded to Technology Center AU 2671 for processing the Continued Prosecution Application (CPA) filed on September 17, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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Paper No. 19

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

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OFFICE OF PETITIONS

In re Application of
Chan, et al.
Application No. 09/160,824
Filed: September 25, 1998
Attorney Docket No. 97-C-108
For: STACKED MULTI-COMPONENT
INTEGRATED CIRCUIT MICROPROCESSOR

DECISION
ON PETITION
37 CFR 1.47

This is a decision on the petition filed September 2, 2003 (certificate of mailing date August 25, 2003), under 37 CFR 1.47(a).

The petition is **DISMISSED AS MOOT**.

The petition under 37 CFR 1.47(a) has been proffered due to the inability to obtain the signature of one of the named inventors on a declaration filed under 37 CFR 1.131.

However, 37 CFR 1.47 (and a petition thereunder) is only applicable to the initial filing, and PTO acceptance, of an application wherein one or more of the named inventors refuses to sign, or cannot be located so as to sign, the oath or declaration filed under 37 CFR 1.63. Where, as here, all the named inventors have executed the original oath or declaration under 37 CFR 1.63, 37 CFR 1.47 has no relevance to the application. See MPEP 201.03(b); 409.03.

Rather, MPEP 715.04 applies to the situation in hand and notes in pertinent part that (1) an affidavit or declaration filed under 37 CFR 1.131 may be signed by less than all the named inventors when the signing inventors are in fact the inventors of the subject matter of the of the claim(s) under rejection, or (2) if it is shown that a joint inventor of the claimed invention refuses to sign, the signature(s) of the remaining inventor(s) is sufficient, provided that the declaration under 37 CFR 1.131 shows completion of the invention by all the joint inventors of the claimed subject matter, or (3) the assignee of the entire interest may make the declaration under 37 CFR 1.131.

Accordingly, the file is being returned to Technology Center AU 2826 for treatment of the showing under 37 CFR 1.47(a) as part of a showing under the practice of MPEP 715.04, for acceptance of the declaration under 37 CFR 1.131, signed by less than all the named inventors.

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.

Inquiries regarding this communication may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: DANIEL E. VENGLARIK
DAVIS MUNCK, P.C.
P.O. BOX 802432
DALLAS TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 11

HOECHST MARION ROUSSEL INC
2110 EAST GALBRAITH ROAD
P O BOX 15300
CINCINNATI OH 45215-6300

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MAR 1 4 2002

OFFICE OF PETITIONS

In re Application of
Sai P. Sunkara
Application No. 09/160,977
Filed: September 25, 1998
Attorney Docket No. M01660J
Title: METHOD OF TREATING CANCER BY CONJUNCTIVE THERAPHY WITH 2'-HALOMETHYLIDENE DERIVATIVES AND A S-PHASE OR M-PHASE SPECIFIC ANTINEOPLASTIC AGENT

DECISION ON PETITION

This is a decision on the petition filed on November 21, 2001, pursuant to 37 C.F.R. §1.181(a), and in the alternative, a petition to revive under 37 CFR §1.137(b).

The petition under 37 CFR §1.137(b) is **DISMISSED AS MOOT**.

The petition under 37 C.F.R. §1.181(a) is **GRANTED**.

The above-identified application became abandoned for failure to submit a proper reply to the non-final Office Action, mailed May 24, 2000, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. . Accordingly, the above-identified application became abandoned on August 25, 2000. A Notice of Abandonment was mailed on November 30, 2000.

Petitioner submits that a proper reply was not submitted due to the fact that the non-final rejection was never received, and petitions the Office to withdraw the holding of abandonment. Along with the petition under 37 C.F.R. §1.181(a), the petitioner has submitted a declaration from Robin J. Inman, the paralegal docket clerk who handles the receipt of all mail from the PTO, as well as a copy of the docket report.

In his petition, petitioner states "a thorough search of the internal docket records and the file jacket for the above-identified patent application did not locate the Office Action dated May 24, 2000 or any indication that it was ever received by Applicant or its undersigned attorney". Furthermore, the instant application is not listed on the supplied copy of the Docket Report.

For these reasons, it is decided that the Office Action of May 24, 2000 was never received by Petitioner.

In view thereof, the petition under 37 CFR §1.181(a)is GRANTED[1]. The holding of abandonment is hereby WITHDRAWN.

The Continued Prosecution Application (CPA) filed on November 21, 2001, has been entered and made of record.

A copy of the Office Action of May 24, 2000 is included with the instant decision.

The application is being forwarded to Technology Center 1600 for processing of the CPA.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

Paul Shanoski
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

1 As the petition under 37 CFR §1.181(a) has been granted, the petition under 37 CFR §1.137(b) is unnecessary, and the corresponding fee has not been charged to petitioner's Deposit Account.

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WASHINGTON, D.C. 2023
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APR 1 0 2003

Technology Center 2100

Paper No. 27

Raymond E. Roberts
Intellectual Property Law Office
1901 S. Bascom Avenue, Suite 660
Campbell California 95008

In re Application of: Pi-Wei Chin et al.	)	
Application No. 09/161,073	)	
Filed: September 25, 1998	)	**DECISION ON PETITION**
For: INTERFACE FOR PROVIDING	)	**UNDER 37 CFR § 1.181 TO**
DIFFERENT-LANGUAGE	)	**INVOKE SUPERVISORY**
VERSIONS OF MARKUP-	)	**AUTHORITY**
LANGUAGE RESOURCES	)	

This is a decision on the petition under 37 CFR 1.181, filed February 26, 2003 requesting the Group Director to enter an amendment which was refused entry in the Advisory action mailed on January 15, 2003.

The petition is **DISMISSED**.

CASE HISTORY

An Office action finally rejecting all claims pending in the above-referenced application was mailed on October 22, 2002. Applicant filed a proposed amendment after final (Paper No. 22) on December 27, 2002. The Examiner responded with an Advisory action mailed January 31, 2003 indicating that the proposed amendment after-final would not be entered because 1) it raises New Issues that would require further search and/or consideration, and 2) it did not place the case in better form for appeal by materially reducing or simplifying the issues for appeal.

Petitioner filed the instant petition on February 26, 2003, contending that the proposed amendment should have been entered and requesting withdrawal of the refusal to enter the proposed amendment.

RELIEF REQUESTED

The instant petition under 37 CFR § 1.181 requests the following relief:

Petitioners request that the refusal to enter the after final amendment (Paper No. 23) be withdrawn and that the amendment be sufficiently considered pursuant to MPEP 714.13 and 37 CFR §1.116.

OPINION

The relevant section of the MPEP concerning entry of amendments after a final rejection is MPEP § 714.13 which states:

> ENTRY NOT A MATTER OF RIGHT
>
> It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims. Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way ***requires only a cursory review by the examiner***, compliance with the requirement of a showing under 37 CFR 1.116(b) is expected in all amendments after final rejection.

The newly proposed claims are ***not equivalent to any previously presented claims***, but rather they comprise of a claim scope not previously presented. As set forth in the Advisory action, this is the result of applicant's amendment replacing "unambiguously" with "always", which changes the scope of the claimed invention. The deleted term, ("unambiguous") can be interpreted as clear and definite, whereas the amendatory language ("always") is interpreted as always occurring, regardless. Furthermore, it is unclear whether support exists for the amendment in Applicant's specification, raising the possibility of new matter rejection. Accordingly, said amendment would require further search and/or consideration.

As set forth above, the amendment clearly fails to simplify the issues, in fact, it raises new issues and would have required further search and/or consideration if entered. As such, the examiner acted properly and within his duties to deny entry of this amendment.

The examiner's refusal to enter the proposed amendment is correct and consistent with Office policy and practice. Accordingly, the Petition to compel the examiner to enter the amendment is **DISMISSED**.

The application file is being forwarded to the Examiner of record to consider Applicant's Brief on Appeal filed February 20, 2003.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

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

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

Pennie and Edmonds LLP
1155 Avenue of the Americas
New York, New York 10036-2711

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MAR 0 7 2002

OFFICE OF PETITIONS

In re Application of
Hong Jin, et al
Application No. 09/161,122
Filed: September 25, 1998
Attorney Docket No. 7682-45

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 6, 2001, which set a shortened statutory period for reply of three (3) months. A three(3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 7, 2001.

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

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

Telephone inquiries concerning this decision should be directed to 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 1642.

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

Paper No. 26

PENNIE AND EDMONDS
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

COPY MAILED

DEC 03 2002

OFFICE OF PETITIONS

In re Application of	:
Hong Jin et al	:
Application No. 09/161,122	: DECISION ON PETITION
Filed: September 25, 1998	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7682-45	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 5, 2002, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed nonprovisional Application No. 08/316,439, filed September 30, 1994, now Patent No. 5,840,520.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(3) only applies where an applicant failed to comply with the provisions of 37 CFR 1.78(a)(2)(ii) within the time period provided for therein to add a reference to a prior-filed application in an application which was filed on or after November 29, 2000. In the instant case, since the subject application on which the CPA filed on December 15, 2000 is based was filed prior to November 29, 2000, the provisions of 37 CFR 1.78(a)(3) do not apply. 37 CFR 1.78(a)(2)(i), first sentence, specifically exempts CPA applications from the further provisions of the rule. The exact situation herein is further discussed on the USPTO web site, www.uspto.gov, on the AIPA web page, Questions and Answers, Section C, which pertains to 18 month publication, answer to question CX3.

However, petitioner may seek relief by way of a petition under 37 CFR 1.182 requesting entry of an amendment to the prior-filed application. 35 U.S.C. §120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. See Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (DC DC 1976).

In view of the above, the $1,280 fee submitted for the petition under 37 CFR 1.78(a)(3) is unnecessary. Accordingly, petitioner may request a refund of the $1,280 petition fee submitted by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1648 for processing the RCE filed September 5, 2002, and for appropriate consideration of the concurrently filed petition under Rule 1.48, amendment and drawings.

Frances Hicks

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

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/11/08

TO SPE OF : ART UNIT 2854 Eickholt, Eugene

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/161194 Patent No.: 5957050

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: Claim 1 should not appear in the issued patent as requested. However, claim 1 appears at column 11, line 54 to column 12, line 4, not column 13 as stated by applicant. Columns 11-18, claims 2-26 should be numbered claims 1-25, respectively, and their respective dependencies changed accordingly as requested by applicant.

/Judy Nguyen/ — SPE

2854 — Art Unit

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6037532	2000-03-14	09/161,246	1998-09-25	

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	/Fred Beckmeir/	Date (YYYY-MM-DD)	2008-09-15
Name	Fred Beckmeir		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6037532
Issue Date: March 14,2000
Application No. 09161246
Filed: September 25,1998
Attorney Docket No.

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

This is a decision on the electronic petition, filed September 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 September 15,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

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

David L. Stewart (For Requester)
ALLEN DYER DOPPELT MILBRATH
& GILCHRIST, P.A.
Suite 1401
Orlando, FL 32802

MAILED
JUN 0 6 2003
REEXAM UNIT

Enclosures: Request papers deposited December 26, 2002

In re Campana, Jr. et al. Request For Reexamination Proceeding For: U.S. Patent No. 6,067,451 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. 6,067,451 (hereinafter, the '451 patent), issued to Campana, Jr. et al., on May 23, 2000, from an application filed on September 28, 1998.

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 90/006,494 reexamination proceeding, for the present '451 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

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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).

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 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

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[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).

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>.

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]

---

[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.

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 separate 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."

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[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. 17

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(For Patent Owner)

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. 6,067,451
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 (l) 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. 6,067,451 (hereinafter, the '451 patent), issued to Campana, Jr. et al., on May 23, 2000, from an application filed on September 28, 1998.

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 '451 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 '451 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

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Paper No. 19

Donald E. Stout (For Patent Owner)
Antonelli, Terry, Stout & Kraus
Suite 1800
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Enclosure: Copy of Requester Petition filed July 31, 2003

MAILED
NOV 25 2003
REEXAM UNIT

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. 6,067,451 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. 6,067,451 (hereinafter, the '451 patent), issued to Campana, Jr. et al., on May 23, 2000, from an application filed on September 28, 1998.

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 90/006,494 reexamination proceeding, for the present '451 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 '451 patent, which was assigned control number 90/006,681.

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 90/006,681 *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."

---

[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\6067451.rcn

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)
6,567,344	2003-05-20	09/161,536	1998-09-28	2962-0456-US0

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David Leason/	Date (YYYY-MM-DD)	2008-06-16
Name	David Leason	Registration Number	36195

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6567344
Issue Date: May 20,2003
Application No. 09161536
Filed: September 28,1998
Attorney Docket No. A-6422

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

This is a decision on the electronic petition, filed June 16,2008 ,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 June 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

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

In re Patent No. 5991943
Issue Date: November 30,1999
Application No. 09161765
Filed: September 28,1998
Attorney Docket No. 101592-01

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

This is a decision on the electronic petition, filed February 12,2008 ,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 12,2008 . 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)
5,991,943	1999-11-30	09/161,765	1998-09-28	438P282

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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 R. McGuire/	Date (YYYY-MM-DD)	2008-02-12
Name	George R. McGuire	Registration Number	36603

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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JAN 05 2009

OFFICE OF PETITIONS

In re Patent No. 7,197,190	:	
Issue Date: March 27, 2007	:	
Application No. 09/161,770	:	ON PETITION
Filed: September 29, 1998	:	
Patentee(s): James Philip Andrew	:	

This is a decision on the petition under 37 CFR 1.183, filed July 17, 2008, to correct assignee information and to reprint the Letters Patent. This is also a decision on the request to withdraw the petition under 37 CFR 1.183 filed on October 15, 2008.

The petition under 37 CFR 1.183 filed on July 17, 2008 is **DISMISSED**.

Since petitioner states that the information as printed on the cover of the patent is correct, the petition filed on July 17, 2008 is unnecessary. Therefore, the request to withdraw the petition under 37 CFR 1.183, filed on October 15, 2008 is **GRANTED**.

In view of the above, fees totaling $500 will be credited to petitioner's deposit account.

This patent file is being referred to Files Repository.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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NEW YORK NY 10112

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JUL 27 2006

OFFICE OF PETITIONS

In re Application of
Sakaguchi et al.
Application No. 09/161,774
Filing Date: September 29, 1998
For: PROCESS FOR PRODUCTION OF SEMICONDUCTOR SUBSTRATE

: Decision on Petition for
: Patent Term Extension

The above-identified application has been forwarded to the undersigned for consideration on the "Petition Under 37 CFR 1.181 and MPEP 2720 For Reconsideration of Patent Term Extension," which was received on June 30, 2006 requesting a patent term extension of 372-days. See 35 U.S.C. § 154(b)[1] and 37 C.F.R. § 1.701.

The petition is granted.

Petitioner notes that the Notice of Allowance dated June 3, 2006, in the above-identified application incorrectly stated that the patent term extension was 0-days. Petitioner contends that an interference was declared on October 21, 2004, and the Board of Patent Appeals and Interferences (BPAI) terminated the interference on October 27, 2005.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **372 days**.

Petitioner's deposit account has not been charged a petition fee.

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

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

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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AUG 29 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Kiyofumi Sakaguchi et al	:	
Application No. 09/161,774	:	
Filed: September 29, 1998	:	
Attorney Docket No. 35.C10530C1/	:	

This is a decision on the petition, filed August 25, 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, 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 2823 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
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
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 12

Mark R. Leslie
Kirkpatrick & Lockhart, LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburg, PA 15222

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AUG 2 1 2001

OFFICE OF PETITIONS

In re Application of
Philip G. Green, et al.
Application No. 09/162,301
Filed: September 28, 1998
Attorney Docket No. P-4125

ON PETITION

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 March 31, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 1, 2000.

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.

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 $890 extension of time submitted with the petition on July 31, 2001 was subsequent to the maximum extendable period for reply, petitioner will receive a refund by treasury check.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center 1600.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6084767
Issue Date: July 4,2000
Application No. 09162530
Filed: September 29,1998
Attorney Docket No. RD-24.895

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

This is a decision on the electronic petition, filed July 1,2010 ,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 July 1,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6084767	2000-07-04	09162530	1998-09-29	RD24895-3

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	/JEAN K. TESTA/	Date (YYYY-MM-DD)	2010-07-01
Name	JEAN K. TESTA	Registration Number	34396

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

KEVIN L KLUG
ATTORNEY AT LAW
11237 CONCORD VILLAGE AVENUE
ST. LOUIS MO 63123

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JUL 3 0 2002

OFFICE OF PETITIONS

In re Application of :
Boehlow :
Application No. 09/162,562 :
Filed: September 29, 1998 :
Title: Keyless Deadbolt Lock Engaging Device :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on April 1, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on March 1, 1999, for failure to file a timely response to the non-final Office action mailed on November 30, 1998, which set a three (3) month shortened statutory period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed on September 13, 1999. The petition to withdraw the holding of abandonment, filed on June 18, 2001, was dismissed in a decision mailed on July 31, 2001.

The required reply, in the form of an amendment (paper #8) responsive to the non-final Office action mailed on November 30, 1998, and a terminal disclaimer (paper #10) have been received. Additionally, a power of attorney and change of address has been received and entered in the file.

The terminal disclaimer (paper #10 - form PTO/SB/63) filed April 1, 2002 is not required for utility application filed on or after June 8, 1995. Note that the terminal disclaimer required to obviate a nonstatutory double patenting rejection is form PTO/SB/26 (see MPEP, page 1400-90).

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).

This application file is being forwarded to Technology Center 3600 for processing.

Telephone inquiries concerning this decision should be directed to Weilun Lo at (703) 305-1645.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MEYER PHARMACEUTICALS LLC
1761 KAISER AVENUE
IRVINE CA 92614

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JUL 19 2006
OFFICE OF PETITIONS

In re Application of :
Hiserodt :
Application No. 09/162,648, :
Filed: September 29, 1998 :
Title: Cancer Immunotherapy Using :
Allostimulated Cells in a Multiple Sequential
Implantation Strategy

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 2, 2005. In the alternative petitioner has requested the petition be treated under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **Dismissed**.
The petition to revive under 37 CFR 1.137(b) is **Dismissed**.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers mailed on October 20, 2005. The Notice to File Corrected Application Papers set a non-extendable thirty (30) day period for reply. A reply was not received. This decision precedes the mailing of a Notice of Abandonment.

Petitioner states during the later part of October through November of 2005 that he suffered a series of medical maladies. Petitioner contends the request for an executed declaration and correction of the priority document within a non-extendable thirty (30) day reply period was unreasonable. Petitioner argues extensions under 37 CFR 1.136 (a)(1) accommodate professional, familial and health considerations. The departure from extendable reply period has caused a serious hardship for petitioner. Petitioner further insist that the purported defects could have been identified by the Office any time during the past six years.

Petitioner's argument has been considered but deemed unpersuasive. While it is unfortunate that petitioner's illness prevented timely response to the Notice to File Corrected Application Papers, the facts provided do not warrant the withdrawal of the holding of abandonment. Petitioner does not contend that he did not receive the Notice to File Corrected Application Papers or that he timely replied to the Office Action. Petitioner contends he needed additional time to reply to the Notice. Accordingly, petitioner does not dispute that the application is not abandoned. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions

merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. MPEP 711.03(c).

Further, the Office makes every effort to ensure that an application is in proper order before the mailing of the Notice of Allowance. However, sometimes defects are discovered and must addressed prior to issuance of the patent.

Alternative Venue

In the alternative, petitioner has requested the above petition be treated under 37 CFR 1.137(b).

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** a final agency action within the meaning of 5 U.S.C. §704

A grantable petition under 37 CFR §1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR §1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR §1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

Petitioner has failed to meet item (1), further review of the record shows that the corrected drawings required by the Notice of Allowability mailed on April 21, 2005 have not been received. Accordingly, the application can not be revived without receipt of the corrected drawings.

As to item (3), there are insufficient funds to charge the $750.00 petition to revive fee.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window,

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

MEYER PHARMACEUTICALS LLC
1761 KAISER AVENUE
IRVINE CA 92614

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JAN 08 2007

OFFICE OF PETITIONS

In re Application of
Hiserodt
Application No. 09/162,648,
Filed: September 29, 1998
Title: Cancer Immunotherapy Using Allostimulated Cells in a Multiple Sequential Implantation Strategy

ON PETITION

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

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers mailed on October 20, 2005. The Notice to File Corrected Application Papers set a non-extendable thirty (30) day period for reply. A reply was not received. A Notice of Abandonment was mailed on August 21, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 17

Katten Muchin Zavis Rosenman
575 Madison Avenue
New York, NY 10022-2585

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MAR 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Suzuki et al. :
Application No. 09/162,849 :
Filed: September 29, 1998 :
Attorney Docket No. FUJA 15.447 (100794-11007) :

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed July 3, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on October 4, 2002.

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 $930 extension of time submitted with the petition on January 27, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application is being forwarded to Technology Center AU 2126 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
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

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OFFICE OF PETITIONS

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FEB 08 2005

CANCELLED

OFFICE OF PETITIONS

ERIK B. CHEERDAK & ASSOCIATES
11300 ROCKVILLE PIKE, SUITE 906
ROCKVILLE MD 20852

In re Application of	:	
Daniel Veditz	:	
Application No. 09/163,041	:	DECISION GRANTING PETITION
Filed: September 29, 1998	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 013.0067	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of May 29, 2002 is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center Art Unit 2141.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
ERIK B. CHERDAK
149 THURGOOD STREET
NORTH POTOMAC, MD 20878

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)
6163936	2000-12-26	09163176	1998-09-30	JHM384

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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)	2009-02-05
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.**

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

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

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

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

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

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

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

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6163936
Issue Date: December 26,2000
Application No. 09163176
Filed: September 30,1998
Attorney Docket No. JHM384

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

This is a decision on the electronic petition, filed February 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6167512
Issue Date: December 26,2000
Application No. 09163357
Filed: September 30,1998
Attorney Docket No. 78091/197

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

This is a decision on the electronic petition, filed February 2,2010 ,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 2,2010 .
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)
6167512	2000-12-26	09163357	1998-09-30	98-1013

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Lesley Coulson Boveri/	Date (YYYY-MM-DD)	2010-02-02
Name	Lesley Coulson Boveri	Registration Number	46642

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

RICHARD ARON OSMAN
SCIENCE AND TECHNOLOGY LAW GROUP
242 AVE VISTA DEL OCEANO
SAN CLEMEMTE CA 92672

COPY MAILED

JUL 27 2006

OFFICE OF PETITIONS

In re Application of	:
Lustig et al.	:
Application No. 09/163,713	: Decision on Petition for
Filed: September 30, 1998	: Patent Term Extension
Attorney Docket No. T97-012-1	:
For: NUCLEAR HORMONE RECEPTOR	:
DRUG SCREENS	:

The above-identified application has been forwarded to the undersigned for consideration on the "Petition to the Under 37 CFR 1.181," which was received on June 30, 2006, for the above-identified application. Petitioner argues that the application is entitled to more patent term extension, as the Notice of Allowance and Fees Due does not appear to take into consideration the entirety of the delay. Further requests or a request for reconsideration of this decision for patent term extension, must be filed under 37 CFR 1.182 or 37 CFR 1.183, and include the required fee, as 37 CFR 1.701 does not provide for an extension in this situation.

The petition is dismissed.

The patent term extension information has been corrected to indicate that the application is eligible for zero (0) days of patent term extension under 35 U.S.C. 154(b).

Petitioner notes that the above-identified application was filed on September 30, 1998, allowed on June 27, 2006, but was delayed due to suspensions in prosecution for a potential interference. Petitioner states that the application was suspended for almost four years through no fault of applicants until June 27, 2006. Petitioner asserts that the patent term adjustment does not appear to take into consideration the entirety of the delay. Petitioner argues that patent term extension of 281 days indicated on the Notice of Allowance and Fees Due mailed June 27, 2006 is inadequate.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000. The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

The above-identified application was filed on September 30, 1998. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute. While petitioner argues that patent term extension should be awarded to the above identified application, both 35 U.S.C. 154(b) and 37 CFR 1.701(c)(1) require an interference proceeding under 35 U.S.C. 135(a) to be eligible for patent term extension.

While prosecution in the application was suspended, the suspensions were due to a potential interference with applicant's application and another patent or application, not to await the result of an interference in another application. As a result, the provisions of 37 CFR 1.701(c)(1)(i) and (c)(1)(ii) do not apply. The provisions of 37 CFR 1.701(c)(1) apply to suspensions by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) and in this instance there were no interference proceedings. Both the statute and the rule require there to be "a proceeding under section 135(a)."

The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154. The delay in issuance of petitioner's application is regretted.

The Notice of Allowance and Issue Fee Due mailed June 27, 2006, incorrectly indicates that the patent to issue from the above-identified application is eligible for a 281-day extension when no extension is due. The Patent Application Location and Monitoring (PALM) system indicates that the application is entitled to a 281-day extension because the code for a suspension due to an interference in another application was improperly entered into the PALM system. The letter of suspension mailed by the Office on October 20, 2003, and additional suspension letters mailed by the Office all indicate that the suspensions were for a potential interference. The Office records have been corrected to indicate that the application is eligible for a 0-day extension.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by zero **(0) days.**

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

ROBERT J. JACOBSON
HAUGEN LAW FIRM PLLP
1130 TCF TOWER
121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

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APR 1 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Robert H. Leslie, et al.	:	
Application No. 09/163,771	:	ON PETITION
Filed: September 30, 1998	:	
Attorney Docket No. 2002.1528.ORI	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 1, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 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 application became abandoned on December 31, 1999.

The above-identified application has been abandoned for an extended period of time. The US 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. 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 Change of Correspondence Address has been accepted and recorded.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 3600, Art Unit 3635 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/9/07

TO SPE OF : ART UNIT 2616

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/163925 Patent No.: 7046625B1

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**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2616
Art Unit

09/163,925.

C of C

OIPE IAP11
DEC 05 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. **US 7,046,625 B1**)
KASPER)
)
Issued: **MAY 16, 2006**)
)
For: **METHOD AND SYSTEM FOR ROUTING**)
NETWORK-BASED DATA USING FRAME)
ADDRESS NOTIFICATION)
)

Approved
PCLaw 12.3.7

REQUEST FOR CERTIFICATE OF CORRECTION OF APPLICANT'S MISTAKE UNDER RULE 1.323

Certificate
DEC 07 2006
of Correction

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

Sir:

In accordance with the provisions of Rule 1.323 of the Rules of Practice, the Patent Office is respectfully requested to correct matters in the above-identified patent in accordance with the Certificate of Correction Form PTO-1050 attached hereto.

The Patent Office is requested to issue a Certificate of Correction on the above-referenced Patent Document, and to place such a Certificate of Correction in the file, so that such will appear on any copies of the patent which are ordered in the future.

The corrections being made are of consequence to provide the proper recitation in the specification and claims. The mistakes occurred in good faith and are not the fault of the Patent and Trademark Office. No new matter is added by these corrections.

A check for the requisite fee as set forth in 37 CFR § 1.20(a) in the amount of $100.00 is included herewith. The

12/06/2006 GWORDOF1 00000004 7046625
01 FC:1811 100.00 OP

DEC - 8 2006

Approved PClar 12.3.7

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	US 7,046,625 B1
DATED	:	May 16, 2006
INVENTOR(S)	:	Kasper

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

Column 3, Lines 44-45	Delete: "direct access memory" Insert: -- direct memory access --
Column 6, Line 24	Delete: "sent" Insert: -- send --
Column 23, Line 9	Delete" "points" Insert: -- point --
Column 26, Lines 25-26	Delete: "direct access memory" Insert: -- direct memory access --
Column 27, Line 13	Delete: "direct access memory" Insert: -- direct memory access --
Column 29, Line 27	Delete: "lookup" Insert: -- look-up --

MAILING ADDRESS OF SENDER:
Christopher F. Regan
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 S. Orange Avenue - Suite 1401
P.O. Box 3791
Orlando, FL 32802-3791
PHONE : (407) 841-2330

PATENT NO. US 7,046,625 B1

DEC 8 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6171324
Issue Date: January 9,2001
Application No. 09163961
Filed: September 30,1998
Attorney Docket No. P-4199

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

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

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)
6171324	2001-01-09	09163961	1998-09-30	P-4199 (102-343)

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Ludomir A. Budzyn/	Date (YYYY-MM-DD)	2009-04-20
Name	Ludomir A. Budzyn	Registration Number	40540

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 09182005

LAW OFFICES OF MARK C. PICKERING
P.O. BOX 300
PETALUMA, CA 94953

OCT 19 2005

In re Application of Ronald Pasqualini Application No. 09/164,216 Filed: September 30, 1998 Attorney Docket No. P03921-F5	: : : : :	DECISION ON PETITION

This is a decision on the petition filed June 27, 2005, requesting that the Office accept late payment of the extra claim fee for additional claims added in September 25, 2002.

The petition is **GRANTED**.

Petitioner states that the amendment and Request for Continued Examination filed September 25, 2002, added two extra claims for examination, however, the attorney inadvertently failed to pay the fee for the two claims due to a clerical error in counting claims.

Petitioner further states that the amendment filed March 24, 2003 added six extra claims for examination. Fees for the six extra claims were timely paid, however, the attorney through clerical error, failed to pay the complete fee for the two previously added claims. The extra fee amount paid was only sufficient to cover payment for one of the previously added claims.

Petitioner further states that the amendment filed June 27, 2005 does not add an extra claim for examination, but the fee amount paid is the claim fee for the one remaining claim previously added but not paid for.

A review of the written record indicates that the claim fee for two extra claims added in September 25, 2002 was not paid. The record also indicates that applicant was not notified that additional fees were needed to examine the two extra claims. The record further still indicates that the amendment and Request for Continued Examination filed September 25, 2002 included an authorization to charge additional fees to Deposit Account No. 502305.

In view of the applicant's authorization to charge additional fees to Deposit Account No. 502305, coupled with the Office's failure to notify applicant that additional fees were needed for examination of the two extra claims, the petition is granted.

The late payment of the extra claim fee is accepted.

Inquiries regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

James L. Dwyer, Director
Technology Center 2800
Semiconductor, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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AMB 10-02

Paper No. 11

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60611

COPY MAILED

OCT 1 0 2002

OFFICE OF PETITIONS

In re Application of
Underbrink, et al.
Application No. 09/164,432
Filed: September 30, 1998
Attorney Docket No.: 09060/069001
For: USING A LOW FREQUENCY TIMER TO RESTORE TIMING TO A HIGH FREQUENCY TIMER

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to revive the above-identified application and the alternative petition to revive to revive under 37 CFR 1.137(b), filed June 14, 2001.

The application became abandoned December 20, 1998 for failure to timely respond to the Notice to File Missing Parts of Application ("Notice") mailed October 19, 1998. The Notice set a two (2) month period of time for reply. No extension of time in accordance with 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed July 12, 1999.

Petitioner states a review of docketing records and the file jacket indicate the Notice was never received.

PETITION UNDER 37 CFR 1.181

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not received," 1156 O.G. 53 (November 16, 1993). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt

rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Notice was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice on the part of the United States Patent and Trademark Office.

Petitioner has failed to provide a true copy of a docketing report covering the period of time during which the Notice would have been received and, if appropriate, a copy of the file jacket where the Notice would have been recorded had it been received.

As petitioner has failed to establish non-receipt of the Notice, the petition to withdraw the holding of abandonment under 37 CFR 1.181 is hereby **DISMISSED**.

No petition fee is required in connection with a petition filed pursuant to 37 CFR 1.181. Petitioner is entitled to a refund of the previously submitted $130.00 petition fee. Petitioner may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

PETITION UNDER 37 CFR 1.137(b)

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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The petition lacks item (2) set forth above. Any renewed petition must be accompanied by the petition fee set forth at 37 CFR 1.17(m).

The petition under 37 CFR 1.137(b) is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** 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 1.181." This is not a final agency decision.

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 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. 15

SCOTT A. HORSTEMEYER
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA, GA 30339

COPY MAILED

APR 0 4 2003

OFFICE OF PETITIONS

In re Application of
Underbrink, et al.
Application No. 09/164,432
Filed: September 30, 1998
Attorney Docket No.: 51933-1040
For: USING A LOW FREQUENCY TIMER TO RESTORE TIMING TO A HIGH FREQUENCY TIMER

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 31, 2003.

The application became abandoned December 20, 1998 for failure to timely respond to the Notice to File Missing Parts of Application ("Notice") mailed October 19, 1998. The Notice set a two (2) month period of time for reply. No extension of time in accordance with 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed July 12, 1999. Petitions under 37 CFR 1.181 and 37 CFR 1.137(b) were filed June 14, 2001 and dismissed October 10, 2002.

The decision on petition mailed October 10, 2002 required a response within two (2) months. Accordingly, a response was due on or before December 10, 2002. As the instant renewed petition was not submitted until March 31, 2003 (certificate of mailing date of March 26, 2003), a four (4) month extension of time is required. The required four (4) month extension of time in the amount of $1,450.00 has been charged to Deposit Account No. 20-0778 as authorized in the instant petition.

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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Petitioner has satisfied the statutory requirements of 37 CFR 1.137(b). Accordingly, the instant petition to revive is hereby **GRANTED**.

The revocation of power of attorney/appointment of new power of attorney and change of correspondence address submitted herewith have been entered into the record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 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
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 23

GERALDINE BALDWIN
PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK NEW YORK 10036

COPY MAILED

JUL 1 2 2002

OFFICE OF PETITIONS

In re Application of: .
Tucker et al.
Filed: October 1, 1998
Application No. 09/164,714
Dckt No.: 7969-074-999

ON PETITION

This is a decision on the petition filed April 15, 2002 under 37 CFR 1.10(c), requesting that (1) those papers currently indicating a date of deposit with the USPS of March 14, 2002, be accorded a date of deposit of March 13, 2002, (2) the RCE request filed March 13, 2002, be treated as such and not as a CPA request, such that this application is not subjected to pre grant publication and (3)a corrected filing receipt be issued

The petitions under 37 CFR 1.10(c) are **granted**.

In support of the petition, petitioner includes a copy of Express Mail Label No. EL477035130US which shows a "date-in" of March 13, 2002. Since the papers all currently indicated to have a filing date of March 14, 2002 (paper Nos. 15-18), which include the RCE request, have affixed thereon that Express Mail Label Number, all those pieces of correspondence are entitled to March 13, 2002, as the date of receipt at the USPTO. See 37 CFR 1.6. The applicaton No. on the postcard receipt is an inadvertant error; no continuation of this application was created, and that number has no bearing on or relation to this case.

Since the RCE request was improperly treated as a CPA request; any indication of pre grant publication was issued in error and has been removed from USPTO records.

This application is being returned to Technology Center AU 1633 for **changing USPTO file and PALM EXPO records consistent with this decision, That is, paper Nos. 15-18 will show a date of receipt of March 13, 2002, and the CPA request will be changed to, and processed as, an RCE request,**. A corrected filing receipt is enclosed with this decision.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner for
Patent Examination Policy

Enclosure: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080602

DATE : June 02, 2008

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction on Patent No.: 6479234

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Gary Benzion/ Art Unit 1637

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6175671
Issue Date: January 16,2001
Application No. 09165053
Filed: October 1,1998
Attorney Docket No. ID0931

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

This is a decision on the electronic petition, filed December 9,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 9,2009 . 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)
6,175,671	2001-01-16	09/165,053	1998-10-01	22493-154

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Jean-Pierre FORTIN/	Date (YYYY-MM-DD)	2009-12-09
Name	Jean-Pierre FORTIN		
Enter Reel and Frame Number		Remove	
Reel Number	009495	Frame Number	0567
Enter Reel and Frame Number		Remove	
Reel Number	011241	Frame Number	0314
Enter Reel and Frame Number		Remove	
Reel Number	010567	Frame Number	0001
Enter Reel and Frame Number		Remove	
Reel Number	011241	Frame Number	0391
Enter Reel and Frame Number		Remove	
Reel Number	011195	Frame Number	0706
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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)
6045529	2000-04-04	09165063	1998-10-02	WP-1585-US3

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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 N. Mercanti/	Date (YYYY-MM-DD)	2008-12-05
Name	Michael N. Mercanti	Registration Number	33966

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6045529
Issue Date: April 4,2000
Application No. 09165063
Filed: October 2,1998
Attorney Docket No. WP-1585-US3

:

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

:

This is a decision on the electronic petition, filed December 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

Paper No. 6

MARK D. BARRISH
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAR 17 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Veerasamy Vijayen, et al.
Application No. 09/165,513
Filed: October 2, 1998
Attorney Docket No. 14089-002540

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 28, 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 Notice to File Missing Parts of Application (Notice) mailed October 22, 1998. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 3, 1998.

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

The application file is being forwarded to the Office of Initial Patent Examination Unit.

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
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JJG: 08-02

Paper No: 10

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AUG 2 6 2002

OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Application of:
Sullenger, et al.
Filed: 2 October, 1998
Application No. 09/165,514
Attorney Docket No. 00,888-J; 236/244

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.137(b)[1] to revive the above-identified application filed herein on 19 November, 2001, but not received into the Office of Petitions until this writing.

The Office regrets the delay in addressing this matter.

The petition is **GRANTED**.

The record indicates that:

- Petitioner failed to respond timely and properly to a Notice of Missing Parts mailed on 21 October, 1998, to Petitioner's then Counsel with response due (absent extension of time) on or before 21 December, 1998;
- the instant application went abandoned after midnight 21 December, 1998;
- twenty (20) months after abandonment, Petitioner's then-Counsel filed on 22 August, 2000 (over a 16 August, 2000, certificate of mailing):

  --a Notice of Change of Address; and

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

--a Status Inquiry (Petitioner's then-Counsel asserted therein that the filing constituted a second inquiry, however, no prior inquiry is evident in the record);

- following filing of a Revocation and Power of Attorney, and a Power to Inspect, the instant petition (with fee) was filed, accompanied by payment of the basic filing fee (small entity), surcharge for late payment, multiple dependent claim surcharge and a copy of the Notice of Missing Parts.[2]

The record (including the petition filed on 19 November, 2001) does not necessitate a finding that the delay between midnight 21 December, 1998, and 19 November, 2001, was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on Petitioner's (Donald Zuhn, Ph.D., Reg. No. 48,710) duty of candor and good faith when accepting Petitioner's representation that the delay in filing the response was unintentional.[3]

The instant application is being forwarded to OIPE for further processing.

Telephone inquiries regarding this decision may 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

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[2] The fees were allocated as a petition fee for large entity ($1,280.00), however, these fees are being reallocated as set forth above.

[3] 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).

UNITED STATES PATENT
AND TRADEMARK OFFICE

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

Date Mailed: May 23, 2008
Patent No. :6,723,832 B1
Ser. No. :09/165546
Inventor(s) :Alexander Knuth, et al.
Issued :April 20, 2004
Title:ISOLATED PEPTIDES CORRESPONDING TO AMINO ACID SEQUENCES OF NY-ESO-1,WHICH BIND TO MHC CLASS 1 AND MHC CLASS II MOLECULES, AND USES THEREOF

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 matter 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: (571) 273-0025
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.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 116

Fulbright & Jaworski, LLP
666 Fifth Avenue
New York, NY 10103

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVENUE
NEW YORK NY 10103-3198

COPY MAILED

OCT 16 2008

OFFICE OF PETITIONS

In re Patent No. 6,723,832	:	
Issue Date: April 20, 2004	:	
Application No. 09/165,546	:	ON PETITION
Filed: October 2, 1998	:	
Attorney Docket No. KY/d5466.4-JE	:	

This is a decision on the petition filed June 4, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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)
6,173,947	2001-01-16	09/165,733	1998-10-02	347.00090120

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark J. Gebhardt/	Date (YYYY-MM-DD)	2009-03-06
Name	Mark J. Gebhardt	Registration Number	35518

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6173947
Issue Date: January 16,2001
Application No. 09165733
Filed: October 2,1998
Attorney Docket No. J113.107.102

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

This is a decision on the electronic petition, filed March 6,2009 ,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 6,2009 .
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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 28

JUN 17 2004

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

In re Application of:
John E. Cook et al.
Serial No.: 09/165,772
Filed: October 2, 1998
For: TEMPERATURE CORRECTION METHOD AND SUBSYSTEM FOR AUTOMOTIVE EVAPORATIVE LEAK DETECTION SYSTEM

DECISION ON PETITION

This is a decision on the petition, filed February 20, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failing to file an appeal to seek court review of the decision of September 24, 2003 by the Board of Patent Appeals and Interferences wherein the rejections of all pending claims were affirmed. A Notice of Abandonment was mailed on December 30, 2003.

Petitioner states that a Request for Continued Examination (RCE) was filed on November 24, 2003, before the two-month time period for seeking review by a court of law expired. To support this assertion, petitioner has submitted a copy of the request for RCE and an amendment. And an authorization to charged the fees for filing the RCE to petitioner's Deposit Account. Also submitted is a copy of a postcard receipt listing these items and stamped by the USPTO as having been received on November 24, 2003.

The RCE and the amendment were not matched with the application file and cannot be located. However, the finance record indicates that the fee of $770 for the RCE was collected from petitioner's Deposit Account.

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

The copies of the RCE and of the amendment are accepted since the originally filed response is apparently lost.

The application file is being forwarded to the technical support staff for processing the RCE and entering the amendment. From there, the file will be returned to the examiner for further examination.

Howard N. Goldberg, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Application of

Cook, et al. :

Application No. 09/165,772

: DECISION ON PETITION

Filed: October 2, 1998

:

Attorney Docket No. 051481-5047-01

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 15, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on February 16, 2006. A Notice of Abandonment was mailed on June 1, 2006.

The amendment filed July 20, 2006, is noted.

The Associate Power of Attorney, filed July 20, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2800, GAU 2856 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
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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BACON & THOMAS PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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AUG 06 2007

OFFICE OF PETITIONS

In re Application of Hashiguchi, et al. Application No. 09/166,233 Filed: October 5, 1998 Attorney Docket No. HASH3001/FJD	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(a), filed July 3, 2007.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action mailed April 23, 2004. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on July 24, 2004. A Notice of Abandonment was mailed on October 29, 2004.

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(l); (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 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). 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.[1]

Moreover, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[2]

Petitioner argues that he timely filed a Change of Correspondence Address on April 7, 2004, but the Office action was not mailed to this address. In support thereof, petitioner ~~has~~ included a copy of an Auto-Reply Facsimile Transmission receipt, showing that a Change of Correspondence Address was filed in the instant application on April 7, 2004. See MPEP 503.

In view of the above, it is concluded that petitioner has met his burden of establishing that the delay was unavoidable.

The application is being forwarded to Group Art Unit 3677 for consideration of the Amendment filed with the petition to revive on July 3, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6187030
Issue Date: February 13,2001
Application No. 09166398
Filed: October 5,1998
Attorney Docket No. MBG-98-4

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

This is a decision on the electronic petition, filed May 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 May 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)
6187030	2001-02-13	09166398	1998-10-05	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/GEORGE W WASSON/	Date (YYYY-MM-DD)	2009-05-04
Name	GEORGE W. WASSON	Registration Number	17685

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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Paper No. 30

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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APR 2 8 2005

OFFICE OF PETITIONS

In re Application of
Richard Huber
Application No. 09/166,427
Filed: October 5, 1998
Attorney Docket No. HUBER-36630

ON PETITION

This is a decision on the petition, filed February 3, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for failure to reply in a timely manner to the final Office action mailed May 2, 2002. A Notice of Abandonment was mailed on January 13, 2003. On February 3, 2005, petitioner submitted (1) a petition under 37 CFR 1.137(b); (2) a Request for Continued Examination (RCE) under 37 CFR 1.114; (3) a petition for extension of time under 37 CFR 1.136(a); and (4) a Revocation and Power of Attorney.

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. It is noted that the above-identified application has been abandoned for an extended period of time. Therefore, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith in 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 application is being revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

The petition is **GRANTED**.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Therefore, no extension of time fees are due on a petition for revival. In view thereof, the $510 extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

The Revocation and Power of Attorney filed February 3, 2005, has not been accepted, as it is filed on behalf of the assignee and does not include an appropriate statement under 37 CFR

3.73(b). However, in accordance with 37 CFR 1.34(a), the signature of Karin E. Peterka appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. However, if Ms. Peterka desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record.

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 1734, for further processing of the request for continued examination under 37 CFR 1.114 filed February 3, 2005.

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

cc: Karin E. Peterka
Buchalter, Nemer, Fields & Younger
601 South Figueroa Street, Suite 2400
Los Angeles, CA 90017-5704

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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APR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Huber, Richard	:	DECISION ON PETITION
Application No. 09/166,427	:	TO WITHDRAW
Filed: October 5, 1998	:	FROM RECORD
Attorney Docket No. 020387-000200US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R.§ 1.36(b), filed July 15, 2005.

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).

On February 3, 2005, a Revocation of Prior Power of Attorney and New Power of Attorney was received. However, the request was not accepted because it lacked a Statement under 37 CFR 3.73(b), which is required whenever an assignee wishes to take action in an application.

The current request was signed by Patrick R. Jewik on behalf of all attorneys of record who are associated with Customer Number 20350.

All attorneys/agents associated with Customer Number 20350 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed November 17, 2005 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc: KENNETH L. MCDONALD
1205 CALLE LOZANO
CAMARILLO, CA 93012

KARIN E. PETERKA
BUCHALTER, NEMER, FIELDS & YOUNGER
601 SOUTH FIGUEROA STREET, SUITE 2400
LOS ANGELES, CA 90017-5704

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

March 5, 2002

Hardie R. Barr
NASA Johnson Space Center
HA/Office of Patent Counsel
2101 NASA Road One
Houston, TX 77058

In re application of:
Steven L. Koontz
Serial No.: 09/166,452
Filed: October 5, 1998

DECISION ON PETITION

For: PORPUS ARTICLE WITH SURFACE FUNCTIONALITY AND METHOD FOR PREPARING

This is a decision on the petition received by fax on September 4, 200l, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed October 29, 1998. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned December 30, 1998. A notice of abandonment was mailed on October 10, 2001.

On September 4, 200l, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Part on November 23, 1998.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts of Application on November 23, 1998.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 1771.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination.

TO: USPTO	FROM: JSC
Attn: Ms. Doshie Day	HA/Mary Dickerson
Telephone: 703-308-3640	Telephone: 281 483-1013
FAX 703-308-7749	FAX 281 244-8452
Sheet 1 of 3	9/4/01

Per our telephone conversation today, enclosed is a copy of the return postcard with a USPTO date stamp of 11/23/98 and a copy of the response to the Notice to File Missing Parts of Application.

Thank you,
Mary Dickerson

Resent - Number of pages sent has been corrected -

National Aeronautics and Space Administration

Patent Application Receipt

NASA CASE NO.	:	MSC-22419-6
FILING DATE	:	10/05/98
APPLICATION SERIAL NO.	:	09/166,457
APPLICANT	:	Steven L. Koontz
TITLE	:	See below

GAU: 1771

NOV 23 1998

RECEIPT OF THE FOLLOWING PAPERS IS EVIDENCED HEREON BY THE OFFICIAL STAMP OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

First named Inventor: Steven L. Koontz

Title: Porous Article with Surface Functionality and Method for Preparing Same

Letter in response to the Requirement in the Notice to File Missing Parts of Application dated 10/29/98, consisting of 2 pages (original plus 1 copy); NASA Form 1538 "Declaration, Power of Attorney and Petition Original Application (consisting of 2 pages); and Part 2 of Form PTO-1533 Notice to File Missing Parts of Application (consisting os 1 page).

NASA FORM 432 SEP 96 PREVIOUS EDITIONS ARE OBSOLETE

Charge fee of $130.00 to Deposit Account No. 14-0116..

National Aeronautics and
Space Administration
Washington, DC 20546-0001

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Office of Patent Counsel
Mail Code HA
NASA JOhnson Space Center
2101 NASA Road One
Houston, TX 77058-3696

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
09/166,457	10/05/98	KONNTZ	S MSC-22419-6

0242/1027

HARDIE R. BARR
NASA JOHNSON SPACE CENTER
HA/OFFICE OF PATENT COUNSEL
2101 NASA ROAD ONE
HOUSTON TX 77058

NOT ASSIGNED

1771

DATE MAILED: 10/29/98

NOTICE TO FILE MISSING PARTS OF APPLICATION
Filing Date Granted

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). **If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of ☐ $65.00 for a small entity in compliance with 37 CFR 1.27, or ☒ $130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.**

If all required items on this form are filed within the period set above, the total amount owed by applicant as a ☐ small entity (statement filed) ☒ non-small entity is $ 130.

☐ 1. The statutory basic filing fee is:
- ☐ missing.
- ☐ insufficient.

Applicant must submit $ _____ to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

☐ 2. Additional claim fees of $_____, including any multiple dependent claim fees, are required.

$_____ for _____ independent claims over 3.

$_____ for _____ dependent claims over 20.

$_____ for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

☒ 3. The oath or declaration:
- ☐ is missing or unexecuted.
- ☐ does not cover the newly submitted items.
- ☐ does not identify the application to which it applies.
- ☐ does not include the city and state or foreign country of applicant's residence.

An oath or declaration in compliance with 37 CFR 1. 63, including residence information and identifying the application by the above Application Number and Filing Date is required.

☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

_____

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

☐ 6. A $50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

☐ 7. Your filing receipt was mailed in error because your check was returned without payment.

☐ 8. The application does not comply with the Sequence Rules.
See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."

☐ 9. OTHER: _____

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice MUST be returned with the reply.

Customer Service Center

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Steven L. Koontz	) Group Art
		) Unit: 1771
First Named Inventor:	Steven L. Koontz	)
		)Examiner:
Serial No.:	09/166,457	) W. Beisner
		)
Filed :	October 5, 1998	)
		)
For:	Porous Article with Surface Functionality and Method for Preparing Same	)
		)
		)

Letter

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

In response to the requirement in the Notice to File Missing Parts of Application, dated October 29, 1998, for submission of a new oath or declaration, attached is a corrected NASA Form 1538, Declaration, Power of Attorney and Petition Original Application consisting of 2 pages.

The Commissioner is hereby authorized to charge any fees which may be required to effect the filing of this application or credit any overpayment to Deposit Account Number 14-0116.

Respectfully submitted,

Hardie R. Barr

Hardie R, Barr, Reg. No. 31,480
Attorney for Applicant

Houston, Texas 77058
Telephone: 281-483-1003 or 281-483-4871
Datafax: 281-244-8452

I hereby certify that the attached NASA Form 1538, Declaration, Power of Attorney and Petition Original Application, and an additional copy of this letter; are being deposited with the United States Postal Service on November 16, 1998, as First Class Mail in an envelope addresses to: Box Missing Parts, Assistant Commissioner for Patents, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Hardie R. Barr

Hardie R. Barr

National Aeronautics and Space Administration

Patent Application

Declaration, Power of Attorney and Petition
Original Application

MSC-22419-6
(NASA Case No.)

As a below named inventor, I hereby declare that: my residence, post office address and citizenship, are stated below next to my name, I believe I am the original, first and sole inventor *(If only one name is listed below)* or an original, first and joint inventor *(If plural names are listed below)* of the subject matter which is claimed and for which a patent is sought on the invention entitled **Porous Article with Surface Functionality and Method for Preparing Same**,

the specification of which ☐ is attached hereto, ☒ was filed on *(Date)* 10/5/98 as Application Serial No. 09/166,457.

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Patent and Trademark Office all information which is known to me to be material to patentability as defined in 37 CFR §1.56.

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 CFR §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application: 07/857,901 *(Serial No.)*, 3/26/92 *(Filing Date)*, and 07/997,265 *(Serial No.)*, 2/23/93 *(Filing Date)*,
the status of which are ☒ patented, ☐ pending, ☐ abandoned.

POWER OF ATTORNEY: I hereby appoint the following attorney(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Hardie R. Barr *(Name)*	31,480 *(Reg. No.)*	Edward K. Fein *(Name)*	24,559 *(Reg. No.)*
James M. Cate *(Name)*	25,181 *(Reg. No.)*	Harry Lupuloff *(Name)*	31,117 *(Reg. No.)*
Gary G. Borda *(Name)*	35,455 *(Reg. No.)*	Alan J. Kennedy *(Name)*	28,625 *(Reg. No.)*

ADDRESS ALL CORRESPONDENCE TO:

Name Hardie R. Barr
Address: NASA Johnson Space Center
HA/Office of Patent Counsel
2101 NASA Road One
Houston, TX 77058

DIRECT TELEPHONE CALLS TO:

Hardie R. Barr
Telephone *(Set out complete number to be dialed from USPTO)* 281-483-1003 OR 281-483-4871

MSC-22419-6
(NASA Case No.)

Further, as a named inventor, I certify that the Government of the United States of America, as represented by the Administrator of the National Aeronautics and Space Administration, has ☒ an assignment in, or ☐ license to the invention set forth in this application and has the irrevocable right to prosecute this application and to receive the patent.

Wherefore, I pray that Letters Patent be granted to me for this invention or discovery described and claimed in the foregoing specification and claims, and I hereby subscribe my name to the foregoing specification, claims, power of attorney and this petition.

I hereby 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 18 U.S.C. §1001; and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR	LAST Koontz	FIRST Steven	MIDDLE OR INITIAL L.	
RESIDENCE AND	CITY Dickinson	STATE OR FOREIGN COUNTRY Texas	COUNTRY OF CITIZENSHIP U. S. A.	
POST OFFICE	STREET NO. AND NAME 501 Valley Drive	CITY AND STATE *(OR COUNTRY)* Dickinson, Texas		ZIP CODE 77539
SIGNATURE			DATE 11-06-98	

FULL NAME OF INVENTOR	LAST	FIRST	MIDDLE OR INITIAL	
RESIDENCE AND	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE	STREET NO. AND NAME	CITY AND STATE *(OR COUNTRY)*		ZIP CODE
SIGNATURE			DATE	

FULL NAME OF INVENTOR	LAST	FIRST	MIDDLE OR INITIAL	
RESIDENCE AND	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE	STREET NO. AND NAME	CITY AND STATE *(OR COUNTRY)*		ZIP CODE
SIGNATURE			DATE	

FULL NAME OF INVENTOR	LAST	FIRST	MIDDLE OR INITIAL	
RESIDENCE AND	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
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SIGNATURE			DATE	

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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: HAROLD E. MATTICE	: DECISION ON REQUEST FOR
Patent Number	: 6454649	: RECALCULATION of PATENT
Issue Date	: 09/24/2002	: TERM ADJUSTMENT IN VIEW
Application No	: 09/166,472	: OF WYETH
Filed	: 10/05/1998	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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GEORGE H GERSTMAN, ESQ
SEYFARTH SHAW
55 EAST MONROE STREET
CHICAGO, IL 60603

Mail Date: 07/02/2010

Applicant	: JEAN BROSSARD	: DECISION ON REQUEST FOR
Patent Number	: 6302790	: RECALCULATION of PATENT
Issue Date	: 10/16/2001	: TERM ADJUSTMENT IN VIEW
Application No	: 09/166,483	: OF WYETH
Filed	: 10/05/1998	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
FROM DIRECTORS OFFICE

JAN 24 2005

TECHNOLOGY CENTER 3600

Kenyon & Kenyon
One Broadway
New York, NY 10004

In re Application of :
Holger Bellmann, et al. :
Application No. 09/166,496 :
Filed: October 5, 1998 :
For: CONTROL DEVICE FOR A SYSTEM, AND METHOD FOR OPERATING THE CONTROL DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply applicants' Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on August 26, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that an Office action was mailed to applicants on December 16, 2003. Since a response was not received before the expiration of the six-month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on July 27, 2004.

Petitioner contends that the December 16, 2003 Office action was not received.

There is a strong presumption that an Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of March 16, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. In this regard, in the petition filed August 26, 2004, petitioners state, "Attached to this Petition is a copy of the file-jacket data sheet on which the non-received Office Action mailed on December 16, 2003 would have been entered had it been received and docketed. Also attached to this Petition is a copy of a log showing all incoming mails received from the Patent Office for the relevant period (12/17/03 – 12/31/03) following the mailing of the Office Action on December 16, 2004 by examiner Brian Broadhead who is in charge of examining the above-identified application. In addition, docket sheets showing all docketed due-date entries for March 16, 2004 (the three-month due date for responding to the Office Action mailed on December 16, 2003) are also attached." However, a review of the entire application has been conducted and the above-noted file-jacket data sheet, the incoming mail log, and the docketed due-date entries for March 16, 2004 have not been located. As a result, petitioner's evidence of non-receipt of the Office action mailed December 16, 2003 is insufficient to withdraw the holding of abandonment, and 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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 01/03/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Kenyon & Kenyon
One Broadway
New York, NY 10004

MAILED
FROM DIRECTORS OFFICE

JAN 13 2006

TECHNOLOGY CENTER 3600

In re Application of
Holger Bellmann, et al.
Application No. 09/166,496
Filed: October 5, 1998
For: CONTROL DEVICE FOR A SYSTEM, AND METHOD FOR OPERATING THE CONTROL DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on February 14, 2005.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to applicants on December 16, 2003. Since a response was not received before the expiration of the six-month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on July 27, 2004.

Petitioner contends that the December 16, 2003 Office action was not received.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

(1) A statement from the practitioner stating the Office communication was not received by the practitioner;

(2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of March 16, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petition filed August 26, 2004 failed to meet requirement (3) above.

Applicants' renewed petition provides a copy of the docket record showing all actions due by practitioner's office at and around the due date of March 16, 2004. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office action, originally mailed December 16, 2003, based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

for

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/jwk: 4/20/05

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)
6,144,550	2000-11-07	09/166,502	1998-10-05	

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	/MRWeber/	Date (YYYY-MM-DD)	2009-01-28
Name	Michael R. Weber, President of Pearl Tech Hld, LLC		
Enter Reel and Frame Number		Remove	
Reel Number	011167	Frame Number	0477
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. 6144550
Issue Date: November 7,2000
Application No. 09166502
Filed: October 5,1998
Attorney Docket No. 2011-15

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

This is a decision on the electronic petition, filed January 28,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 28,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6653588	2003-11-25	09166613	1998-10-05	OSI_588

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/sona dalal/	Date (YYYY-MM-DD)	2008-03-13
Name	Sona Dalal	Registration Number	50777

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6653588
Issue Date: November 25,2003
Application No. 09166613
Filed: October 5,1998
Attorney Docket No. RAPI-007

:

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

:

This is a decision on the electronic petition, filed March 13,2008 ,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 March 13,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 21

Bradford G. Addison
Maginot Addison & Moore
Bank One Center/Tower
111 Monument Circle, Suite 3000
Indianapolis, IN 46204-5130

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FEB 16 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
David C. May
Application No. 09/166,625
Filed: October 5, 1998
Attorney Docket No. 1020-0501

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 21, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 22, 2000.

The file will be forwarded to Technology Center 1700, AU 1771 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examinatin Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
AMB 05-03

Paper No. 27

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

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MAY 2 2 2003

OFFICE OF PETITIONS

In re Application	:	
Adedeji, et al.	:	ON PETITION
Application No. 09/167,286	:	
Filed: October 7, 1998	:	
Attorney Docket No.: CN-8764	:	

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed January 17, 2003 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned May 15, 2002 for failure to timely reply to the non-final Office action mailed February 14, 2002. The non-final Office action set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed October 4, 2002.

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been examined and found in compliance with the requirements of 37 CFR 1.137(a). Accordingly, the failure to timely respond to the non-final Office action is deemed to have been unavoidably delayed.

The change of correspondence address submitted July 25, 2001 has been entered into the record.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAR 3 0 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Ann Marie Schmidt et al :
Application No. 09/167,705 :
Filed: October 6, 1998 :
Attorney Docket No. 55873JPWJML :

This is a decision on the petition, filed March 25, 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 September 11, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1646 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 0 2 2005

Director's Office
Office of Patent Publication

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

In re Application of :
SCHMIDT, ANN MARIE, et al. :
Application No. 09/167,705 :
Filed: October 6, 1998 :
Attorney Docket No. 55873JPWJML:

DECISION ON PETITION

This is a decision on the Petition Under 37 C.F.T § 1.181(a) To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) on December 29, 2003.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file new formal drawings as required in the Notice of Allowability, mailed June 6, 2003.

The holding of abandonment for the above-identified application was withdrawn on February 11, 2004, however, the record needs to acknowledge the response to the petition filed December 29, 2003.

Petitioner has submitted a copy of the Communication Forwarding Formal Drawings with two (2) sheets of corrected formal drawings and the returned postcard, which acknowledges receipt of the afore-mentioned items on September 11, 2003 (MPEP 503). The afore-mentioned communication bears a certificate of mailing properly executed on September 8, 2003, in compliance with 37 CFR 1.8.

Since, the original drawings cannot be located, the drawings resubmitted with the instant petition will be used in place thereof.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Patent Publication at 703-308-9250.

Thomas Hawkins

Thomas Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 25 2007

OFFICE OF PETITIONS

In re Patent No. 7,081,241	:	
Issue Date: 07/25/2006	:	NOTICE
Application No. 09/167,705	:	
Filed: 10/06/1998	:	
Attorney Docket No. 55873JPWJML	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed May 16, 2007.

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

The change of status to a large entity has been entered and made of record. This Notice is not intended to imply that the USPTO conducted any investigation of this matter.

Telephone inquiries concerning this Notice may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
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

Paper No. 27

HOGAN & HARTSON
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON, DC 20004

COPY MAILED

FEB 25 2005

OFFICE OF PETITIONS

In re Application of :
Nick Marchesani :
Application No. 09/168,072 :
Filed: October 8, 1998 :
Attorney Docket No. 2413-101A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 1, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 30, 2001, which set a shortened statutory period for reply of three (3) months. A request for continued examination (RCE) filed on April 30, 2002 is improper since the request was not accompanied by a submission as required by 37 CFR 1.114. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on January 31, 2002.

The above-identified application is being revived solely for purposes of continuity with an RCE.

The Office Finance record shows that the RCE fee was inadvertently charged twice. Therefore, a refund of $395.00 is being credited to Deposit Account No. 50-1349.

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

The file is being forwarded Technology Center 3711 for processing of the request for continued examination under 37 CFR 1.114 filed April 30, 2002 and for consideration of the concurrently filed amendment.

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

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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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET, SUITE 1600
PORTLAND, OREGON 97204

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of :
Umesh J. Amin et al :
Application No. 09/168,919 :
Filed: October 9, 1998 :
Attorney Docket No. 2455-4263US1

ON PETITION

This is a decision on the petition, filed October 7, 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 September 12, 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]

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

This matter is being referred to Technology Center AU 2665 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6270877
Issue Date: August 7,2001
Application No. 09169049
Filed: October 9,1998
Attorney Docket No. 00995-P0108A

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

This is a decision on the electronic petition, filed August 28,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 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)
6,270,877	2001-08-07	09/169,049	1998-10-09	00995-P0108A

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Todd M. Oberdick/	Date (YYYY-MM-DD)	2009-08-28
Name	Todd M. Oberdick	Registration Number	44268

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

MAILED

MAY 21 2010

OFFICE OF PETITIONS

NOTICE

In re Patent of Rider, et al. :
Patent No. 6,248,542 :
Issued: June 19, 2001 :
Application No. 09/169,196 :
Filed: October 9, 1998 :
Attorney Docket No. 01997/227002 // 7884L

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed February 23, 2010.

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 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 fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: DANIEL O'BRIEN
MASSACHUSETTS INSTITUE OF TECHNOLOGY
TECHNOLOGY LICENSING OFFICE
FIVE CAMBRIDGE CENTER, KENDALL SQUARE
CAMBRIDGE, MA 02142-1493

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6133174
Issue Date: October 17,2000
Application No. 09169410
Filed: October 9,1998
Attorney Docket No. JPP-1076

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

This is a decision on the electronic petition, filed March 31,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 31,2009 . 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)
6,133,174	2000-10-17	09/169,410	1998-10-09	173P060

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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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THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 M. Knab/	Date (YYYY-MM-DD)	2009-03-31
Name	Ann M. Knab	Registration Number	33331

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

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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

February 12, 2004

John P. White
Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

In re application of:
Roderick John Scott, et al DECISION ON PETITION
Serial No.: 09/169,615
Filed: October 9, 1998
For: THE USE OF DNA SEQUENCES FOR MALE STERILITY IN TRANSGENIC PLANTS

This is a decision on the petition received on December 15, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed November 16, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 17, 2001. The notice of abandonment was mailed on October 23, 2003.

On December 15, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice to File Missing Parts mailed November 16, 2000.

The evidence submitted is sufficient to establish that the petitioners never received the Notice to File Missing Parts mailed November 16, 2000.

The petition is hereby Granted.

The application will be completed with the documents received December 15, 2003 and released to Technology Center 1649.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

Enclosure: 1

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

February 12, 2004

John P. White
Cooper & Dunham
1185 Avenue of the Americas
New York, NY 10036

In re application of:
Roderick John Scott, et al DECISION ON PETITION
Serial No.: 09/169,615
Filed: October 9, 1998
For: THE USE OF DNA SEQUENCES FOR MALE STERILITY IN TRANSGENIC PLANTS

This is a decision on the petition received on December 15, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed November 16, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 17, 2001. The notice of abandonment was mailed on October 23, 2003.

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The petition is hereby Granted.

The application will be completed with the documents received December 15, 2003 and released to Technology Center 1649.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

Enclosure: 1

DEC 15 2003
JC95
PATENT & TRADEMARK OFFICE

Dkt. 1012/57489/JPW/GJG

RECEIVED
DEC 16 2003
OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Roderick John Scott, et al.

Serial No.: 09/169,615

Filed : October 9, 1998

For : THE USE OF DNA SEQUENCES FOR MALE STERILITY IN TRANSGENIC PLANTS

1185 Avenue of the Americas
New York, New York 10112
December 11, 2003

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

SIR:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE NOTICE TO FILE MISSING PARTS, AND RESPONSE TO NOTICE TO FILE MISSING PARTS

This Petition is submitted under 37 C.F.R. §1.181 and M.P.E.P. §711.03(c)(II) to withdraw the Notice of Abandonment issued October 23, 2003 in connection with the above-identified application. The October 23, 2003 Notice indicates that the subject application was abandoned for applicants' alleged failure to respond to a November 16, 2000 Notice to File Missing Parts. A copy of the October 23, 2003 Notice of Abandonment is attached hereto as **Exhibit A.** Pursuant to 37 C.F.R. §1.181(f), this Petition is being filed within two (2) months of the mailing date of the October 23, 2003 Notice of Abandonment. i.e. before December 23, 2003. Accordingly, this Petition is being timely filed.

12/16/2003 AWONDAF1 00000013 09169615
01 FC:1051 130.00 OP

Requirements of Petition Under 37 C.F.R. §1.181 and M.P.E.P. §711.03(c)(II)

A petition under 37 C.F.R. §1.181 must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support of the Petition should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

Pursuant to M.P.E.P. §711.03(c)(II) (Rev. 1, Feb. 2003), the showing required to establish nonreceipt of an Office communication must include a statement from applicants' attorney stating that the Office communication was not received by the attorney and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. According to the M.P.E.P., a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in the statement.

Statement of the Facts Involved and the Point or Points to be Reviewed and the Action Requested

Upon receipt of the October 23, 2003 Notice of Abandonment the undersigned learned that a Notice to File Missing Parts was issued on November 16, 2000 by the U.S. Patent and Trademark Office in connection with the above-identified application. The undersigned then contacted the Office of Initial Patent Examination (OIPE) to request a copy of the November 16, 2000 Notice, which OIPE transmitted by facsimile to the undersigned on October 29, 2003. A copy of the October 29, 2003 facsimile from OIPE is attached as

Exhibit B. A response to the November 16, 2000 Notice to File Missing Parts was due January 16, 2001. However, applicants' undersigned attorney did not receive the November 16, 2000 Notice to File Missing Parts until October 29, 2003.

A search of the file jacket and review of the docketing records by applicants' undersigned attorney indicates that the November 16, 2000 Notice was not received prior to October 29, 2003. The only Office communications received after the October 9, 1998 filing of the subject application is the Filing Receipt dated November 16, 2000. The original Notice to File Missing Parts is neither in the file jacket of this application nor reflected in the docket records of the undersigned firm, Cooper & Dunham LLP.

Evidence in Support of Petition

As evidence of nonreceipt by applicant's undersigned attorney of the November 16, 2000 Notice to File Missing Parts prior to October 29, 2003, and in accordance with the requirements of M.P.E.P. §711.03(c)(II), applicants' undersigned attorney provides as **Exhibit C** hereto, a two (2) page computer printout of the complete docketing record corresponding to the subject application as maintained by the docketing department at undersigned's law firm. The docketing record indicates that it was created on October 5, 1998 to track deadlines for the subject application and last updated on October 27, 2003 by the docketing department at the undersigned's law firm. The record shows receipt of the November 16, 2000 Filing Receipt and the October 23, 2003 Notice of Abandonment. No other Office communications are identified in the docketing record as having been received in connection with the subject application as of October 27, 2003.

If the November 16, 2000 Notice to File Missing Parts had been received, the docketing record would reflect a due date of January 16, 2001, two months from the mailing date of the Notice, in the column designated "Action Due Date" in the docketing records. In the attached docketing records, the column designated "Action Due Date" does not show any due dates for responding to an Office communication for the month of January 2001. The fact that no such due date appears in the "Action Due Date" column is evidence of nonreceipt by the undersigned of the November 16, 2000 Notice to File Missing Parts.

In view of the foregoing, applicants hereby request that the October 23, 2003 Notice of abandonment be withdrawn based on the failure to receive the Notice to File Missing Parts prior to October 29, 2003.

Response to Notice to File Missing Parts

Having now received the November 16, 2000 Notice to File Missing Parts of application, applicants in response to the Notice attach as **Exhibit D** a signed Declaration and Power of Attorney pursuant to 37 C.F.R. §1.53(f). In compliance with 37 C.F.R. §1.63, the Declaration refers to the application's above-identified serial number and filing date.

The surcharge under 37 C.F.R. §1.16(e) for responding to the Notice to File Missing Parts of Application is ONE HUNDRED THIRTY DOLLARS ($130.00) for a non-small entity. A check for a total amount of $130.00 is enclosed to cover the surcharge for filing the enclosed Declaration and Power of Attorney.

Conclusion

In conclusion, applicants respectfully request that the October 23,

2003 Notice of Abandonment be withdrawn and the subject application proceed to examination. If this Petition is not granted under 37 C.F.R. §1.181, applicants respectfully request that the Office of Petition consider this Petition under 37 C.F.R. §1.137(b) based on the facts and response presented and charge any fee to Deposit Account No. 03-3125.

If a telephone interview would be of assistance in resolving any issue in connection with this Petition, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee, other than the enclosed $130.00 surcharge fee, is believed necessary for the filing of this Petition. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

Gary J. Gershik

John P. White
Registration No. 28,678
Gary J. Gershik
Registration No. 39,992
Attorneys for Applicants
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036
(212) 278-0400

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petitions Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Gary J. Gershik 12/11/03
John P. White Date
Reg. No. 28,678
Gary J. Gershik
Reg. No. 39,992

DEC 15 2003
PATENT & TRADEMARK OFFICE

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
09/169,615	10/09/1998	RODERICK JOHN SCOTT	57489/JPW/SH

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DEC 16 2003
OFFICE OF PETITIONS

CONFIRMATION NO. 5859

ABANDONMENT/TERMINATION LETTER

OC000000011091425

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

Date Mailed: 10/23/2003

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 11/16/2000.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282.Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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and is not a part of the Official Record

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Office of Initial Patent Examination (OIPE)
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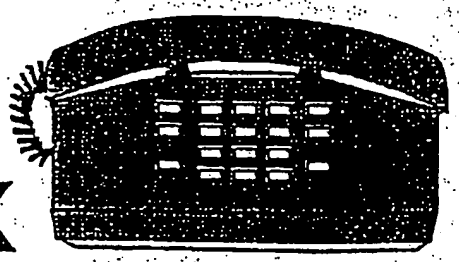
Fax



To: Gary Gershik From: Monica L. Young

Fax: 212-391-0525 Pages: 3

Phone: Date: Oct 27, 03

Re: Office : (OIPE) Customer Service

☐ Urgent ☐ Corrected Filing Receipt ☐ Replacement Filing Receipt ☐ Please Reply

• Comments:

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

DEC 15 2003
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/169,615	10/09/1998	RODERICK JOHN SCOTT	57489/JPW/SH

FORMALITIES LETTER

OC000000005561096

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

Date Mailed: 11/16/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- Late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 was not received.

- **The balance due by applicant is $ 130.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

DEC 15 2003
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/169,615	10/09/1998	RODERICK JOHN SCOTT	57489/JPW/SH

FORMALITIES LETTER

OC000000005561096

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

Date Mailed: 11/16/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- Late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 was not received.

- **The balance due by applicant is $ 130.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

PCMaster v3.03.02 - Cooper & Dunham - [Patent]

File Edit Records Utilities Tools Help

Docket Number	57489	Attorney	JOHN P. WHITE
Country	United States	Agent	
Case Type	REGULAR CASE TYPE	Client\Division	GENE SHEARS PTY LTD
Relation Type	ORIGINAL OR PATENT CASE	Current Owner	1012
Filing Type	NATIONAL CASE	Previous Owner	
Filing Number			

THE USE OF DNA SEQUENCES FOR MALE STERILITY IN TRANSGENIC

Inventors | Licenses | Other No's | Related Id | Title | Text
Filing Data | Related Party Info | Actions | Description | Expenses | Ext Files

Status	Filed	First Filing Date	11AP1996
Sub Status		Sub Status Date	
Parent Country	Great Britain	Parent Filing Date	10AP1997
Parent Number	PCT/GB97/00992	Parent Grant Date	
Total Claims		Ind. Claims\Designs	
Application Number	09/169615	Application Date	09OC1998
Patent Number		Grant Date	
Publication Number		Publication Date	
Assigned		Expiration Date	
Convention Type		Tax Base Date	
		Next Tax Date	

Created: 05OC1998 Updated: 27OC2003 12:01 PM By: MPL

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PCMaster v3.03.02 - Cooper & Dunham - [Patent]

File Edit Records Utilities Tools Help

Docket Number	Next 489	Attorney	JOHN P. WHITE
Country	United States	Agent	
Case Type	REGULAR CASE TYPE	Client\Division	GENE SHEARS PTY LTD
Relation Type	ORIGINAL OR PATENT CASE	Current Owner	1012
Filing Type	NATIONAL CASE	Previous Owner	
Filing Number			

THE USE OF DNA SEQUENCES FOR MALE STERILITY IN TRANSGENIC

Inventors | Licenses | Other No's | Related Id | Title | Text | Filing Data | Related Party Info | Actions | Description | Expenses | Ext Files

Action	Action Due Date	Taken Date	Deadline Date	Completed Date	Responsible Atty #1
CHECK	09DE1998*				
INFORMATION	09JA1999*				
8mo FOREIGN FILING	09JE1999*				
10mo FOREIGN FILING	09AU1999*				
11mo FOREIGN FILING	09SE1999*				
12mo FOREIGN FILING	09OC1999*				
PETITION TO REVIVE	23DE2003				
FILING RECEIPT		20NO2000			
NOTICE OF		23OC2003			

Display the next record | Created 05OC1998 | Updated 27OC2003 12:01PM | By MPL

OIPE JC95
DEC 1 5 2003
PATENT & TRADEMARK OFFICE

DECLARATION AND POWER OF ATTORNEY

As a below-named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

THE USE OF DNA SEQUENCES FOR MALE STERILITY IN TRANSGENIC PLANTS

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the specification of which:
(check one)

___ *is attached hereto.*

~~X~~ *was filed on* October 9, 1998 *as*

Application Serial No. 09/169,615

and was amended _____.
(if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119 (a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International Application which designated at least one country other than the United States, listed below. I have also identified below any foreign application for patent or inventor's certificate, or PCT International Application having a filing date before that of the earliest application from which priority is claimed:

Prior Foreign Application(s)

Number	Country	Filing Date	Priority Claimed Yes	Priority Claimed No
9607517.1	Great Britain	~~April 11, 1996~~	X	

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

Provisional Application No.	*Filing Date*	*Status*
N/A		

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States Application(s), or Section 365(c) of any PCT International Application(s) designating the United States listed below. Insofar as this application discloses and claims subject matter in addition to that disclosed in any such prior Application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56, which became available between the filing date(s) of such prior Application(s) and the national or PCT international filing date of this application:

Application Serial No.	*Filing Date*	*Status*
PCT/GB97/00992	April 10, 1997	pending

And I hereby appoint

John P. White (Reg. No. 28,678); Christopher C. Dunham (Reg. No. 22,031); Norman H. Zivin (Reg. No. 25,385); Jay H. Maioli (Reg. No. 27,213); William E. Pelton (Reg. No. 25,702); Robert D. Katz (Reg. No. 30,141); Peter J. Phillips (Reg. No. 29,691); Wendy E. Miller (Reg. No. 35,615); Richard S. Milner (Reg. No. 33,970); Albert Wai-Kit Chan (Reg. No. 36,479); Robert T. Maldonado (Reg. 38,232); Paul Teng (40,837); George M. MacDonald (Reg. No. 39,284); Richard F. Jaworski (Reg. No. 33,515); Elizabeth M. Wieckowski (Reg. No. 42,226); and Pedro C. Fernandez (Reg. No. 41,741)

and each of them, all c/o Cooper & Dunham LLP, 1185 Avenue of the Americas, New York, New York 10036, my attorneys, each with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, to transact all business in the Patent and Trademark Office connected therewith and to file any International Applications which are based thereon under the provisions of the Patent Cooperation Treaty.

Please address all communications, and direct all telephone calls, regarding this application to:

John P. White *Reg. No.* 28,678

Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036
Tel. (212) 278-0400

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true: and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first joint inventor Roderick John Scott

Inventor's signature RJ Scott

Citizenship United Kingdom *Date of signature* 11/12/98

Residence Bath, United Kingdom

Post Office Address c/o University of Bath, Dept. of Biology and Biochemistry, Bath BA2 7AY, United Kingdom

Full name of joint inventor (if any) Wyatt Paul

Inventor's signature W. Paul.

Citizenship United Kingdom *Date of signature* 22/12/98

Residence Cambridge, Cambridgeshire, United Kingdom

Post Office Address c/o Nickerson Biocem Ltd., Cambridge Science Park, Milton Road, Cambridge CB4 4GZ, United Kingdom

Full name of joint inventor (if any) Pascual Perez

Inventor's signature P. Perez

Citizenship France *Date of signature* 4/1/99

Residence Chanonat, France

Post Office Address c/o Biogemma Les Cezeaux, Laboratoire de BiologieCellulaire et Moleculaire, 24 Avenue des Landais, F-63170 AUBIERE, France

09/169 627

Please expedite

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 22806 9/19/06 **Paper No.:** _____

6,419,526

TO SPE OF : ART UNIT ~~2839~~ 4700

SUBJECT : Request for Certificate of Correction on Patent No.: 6419526

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.

ROCHAUN JOHNSON

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 119

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 change in item (60) from 60/061466 to 60/061,469 is acceptable. 10/2/06

T Patel — SPE

2839 — 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. 8

MAILED

AUG 0 9 2001

Technology Center 2100

Simon B. Anolick
Gardner Carton & Douglas
321 North Clark Street
Suite 3400
Chicago, Illinois 60610

In re Application of: Shari M. Centrone	)	DECISION ON PETITION
Application No. 09/169,813	)	UNDER 37 C.F.R. § 1.8 TO
Filed: October 9, 1998	)	ACCEPT PAPERS AS TIMELY
For: DIGITAL GREETINGS	)	FILED AND UNDER 37 C.F.R. §
	)	1.181 TO WITHDRAW
	)	HOLDING OF ABANDONMENT

This is a decision on the petition filed April 16, 2001 under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment of the above identified application. The communication is treated as a petition under 37 C.F.R. § 1.8(b) to accept papers as timely filed and as a petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment.(See MPEP § 711.03(c)).

This application was held abandoned for failure to respond in a timely manner to the Office Action mailed August 12, 2000. A Notice of Abandonment was mailed March 23, 2001.

37 C.F.R. § 1.8(b) states:

> (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 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 includes a statement signed by Michael R. Osterhoff that Applicant responded on October 11, 2000. The petition is accompanied by a copy of (1) the originally submitted Response, (2) a Certificate of Mailing (dated October 11, 2000) which identifies the submitted papers and (3) an Amendment Transmittal Letter with a Certificate of mailing dated October 10, 2000. The certificates of mailing were signed by Diana W. Strong.

In the instant case, the petition does not comply with the requirements set forth in 37 C.F.R. § 1.8(b)(3). The petition does not attest to the transmission of the Response on a ***personal knowledge*** basis.

Accordingly, the petition is **DENIED**.

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

Margaret A. Focarino

Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MAILED

AUG 2 4 2001

Technology Center 2100

Paper No. 10

Simon B. Anolick
Gardner Carton & Douglas
321 North Clark Street
Suite 3400
Chicago, Illinois 60610

In re Application of: Shari M. Centrone	)	DECISION ON PETITION
Application No. 09/169,813	)	UNDER 37 C.F.R. § 1.8 TO
Filed: October 9, 1998	)	ACCEPT PAPERS AS TIMELY
For: DIGITAL GREETINGS	)	FILED AND UNDER 37 C.F.R. §
	)	1.181 TO WITHDRAW
	)	HOLDING OF ABANDONMENT

This is a decision on the Request for Reconsideration (filed August 21, 2001), filed in response to the decision (Paper No. 8, mailed August 9, 2001) Denying Applicant's petition under 37 C.F.R. § 1.8(b) to accept papers as timely filed and under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment.(See MPEP § 711.03(c))

This application was held abandoned for failure to respond in a timely manner to the Office Action mailed August 12, 2000. A Notice of Abandonment was mailed March 23, 2001.

The original petition filed April 16, 2001 was denied for failure to attest to the transmission of the Response on a personal knowledge basis. The request for reconsideration is accompanied by a verified statement signed by Diana W. Strong relating on a personal knowledge basis the circumstances surrounding the original transmission.

37 C.F.R. § 1.8(b) states:

> (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 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 now complies with the requirements set forth in 37 C.F.R. § 1.8(b).

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the technical support staff for entry of the response. From there, the application file will be forwarded to the examiner for consideration of the response.

Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

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)
6328308	2001-12-11	09170151	1998-10-13	050155

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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 Buchaca/	Date (YYYY-MM-DD)	2010-02-03
Name	John D. Buchaca	Registration Number	37289

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

In re Patent No. 6328308
Issue Date: December 11,2001
Application No. 09170151
Filed: October 13,1998
Attorney Docket No.

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

This is a decision on the electronic petition, filed February 3,2010 ,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 3,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

Best Available Copy

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 3/28/03 **Paper No.:** 29

TO : **Supervisor, Art Unit** 1633

SUBJECT : Certificate of Correction Request in Patent No.: 6,414,133

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

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

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

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☒ **YES** ☐ **NO**

☒ **Comments:** Applicant was contacted and he indicated that formal drawings had already been submitted. Please apply those figures submitted.

Supervisor **Art Unit** 1637

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,414,133 B1
DATED : July 2, 2002
INVENTOR(S) : Jeanne Dietz-Band et al.

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

Drawings,

Figure 3, insert the sheet labeled "FIG. 3 Continued" which begins with the graph titled PT.4 immediately behind the first sheet of Figure 3, as shown on attached page.
Figure 3, insert the sheet labeled "FIG. 3 Continued" which begins with the graph titled PT.7 immediately behind the sheet labeled "FIG. 3 Continued" begins with the graph titled PT.4 as shown on attached page.
Figure 3, insert the sheet labeled "FIG. 3 Continued" which contains the graph titled PT.10 immediately behind the sheet labeled FIG. 3 Continued" which begins with the graph titled PT.7, as shown on attached page.

Signed and Sealed this

Twenty-ninth Day of July, 2003

JAMES E. ROGAN
Director of the United States Patent and Trademark Office

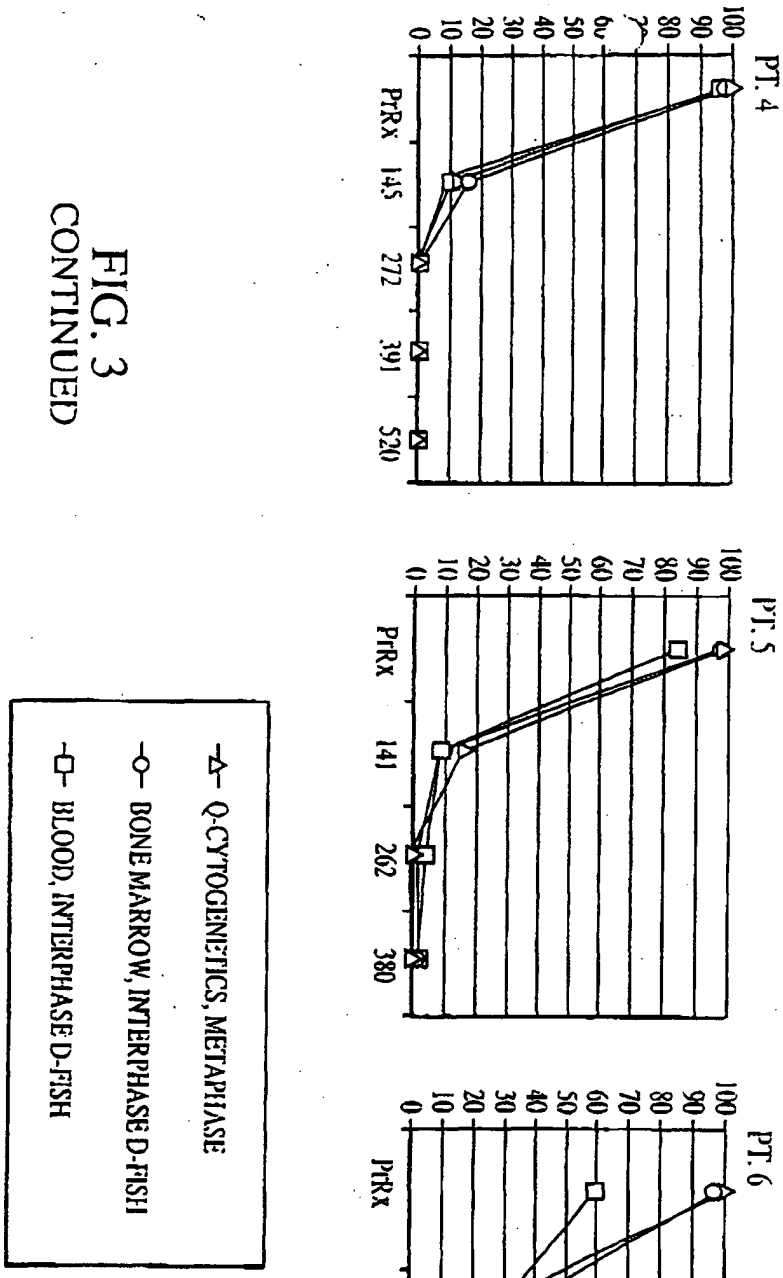


FIG. 3
CONTINUED

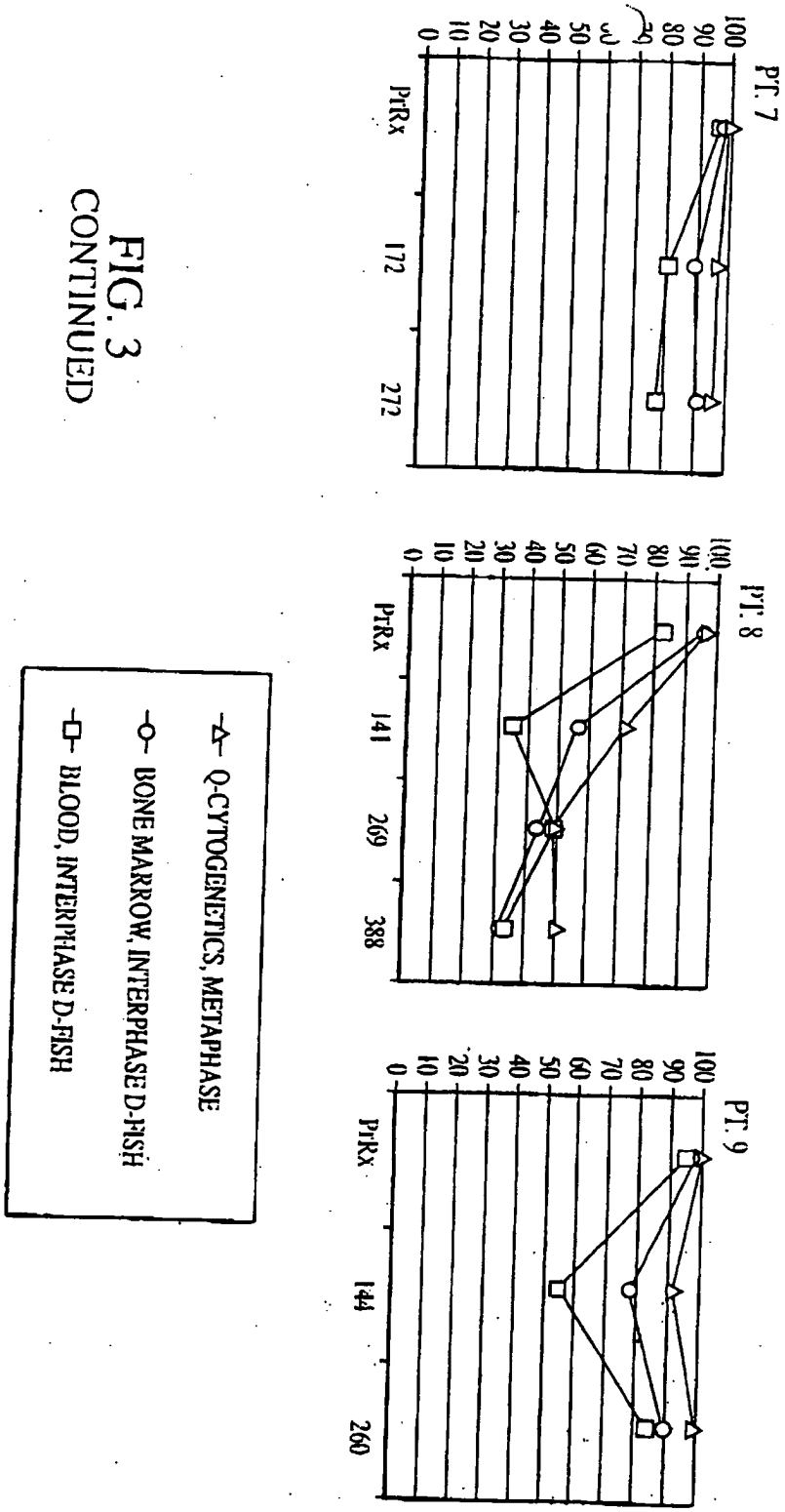
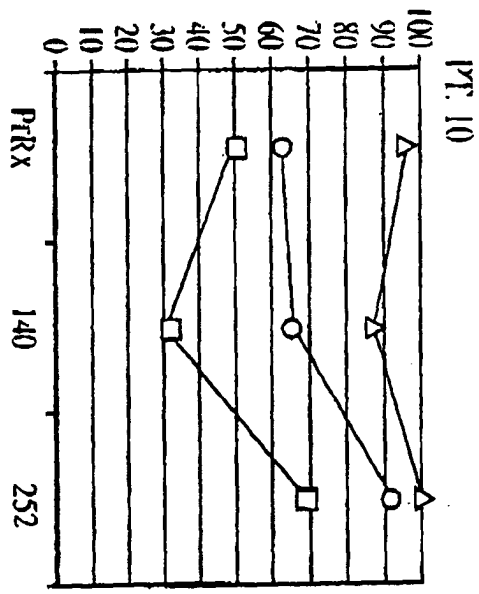


FIG. 3
CONTINUED



Q-CYTOGENETICS, METAPHASE

BONE MARROW, INTERPHASE D-FISH

BLOOD, INTERPHASE D-FISH

FIG. 3
CONTINUED

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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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NOV 14 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Texas Instruments Incorporated
P.O. Box 655474
Dallas, TX 75265

In re Application of
Roy I. Edenson et al
Application No. 09/170,864
Filed: October 13, 1998
For: SECURE DISTRIBUTION OF DIGITAL DATA

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in reply to applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office on September 3, 2002. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that a Final Office action was mailed on November 26, 2001 wherein a three-month shortened statutory period for response was set. A request for reconsideration was filed on February 19, 2002. That request was not found persuasive in the Advisory Action mailed March 8, 2002. An Appeal Brief was filed on May 13, 2002. An Advisory Action mailed July 18, 2002 indicated that the filing of the Appeal Brief without the Notice of Appeal was improper. The application was held abandoned in the Notice of Abandonment mailed July 18, 2002 for failure to file the Notice of Appeal.

Applicant's petition includes a copy of the Notice of Appeal bearing a Certificate of Mailing date of February 27, 2002 signed by Charles A. Brill. The petition includes a statement by Charles A. Brill attesting to the personal knowledge of mailing the correspondence on February 27, 2002. This is acceptable evidence that a timely response was filed.

Since a timely response to the Office letter 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 Notice of Appeal and then to the Primary Examiner for prompt action on the Appeal Brief.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Kenneth J. Dorner at (703) 308-0866.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

kjd: 11/8/02

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ELZBIETA CHLOPECKA
POLLOCK VANDE SANDE & PRIDDY
PO BOX 19088
WASHINGTON DC 20036-3425

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OFFICE OF PETITIONS

In re Application of :
Fredriksson, et al. :
Application No. 09/171,013 : ON PETITION
Filed: October 9, 1998 :
Attorney Docket No. 20260-00045-US :
For: METHOD AND EQUIPMENT FOR
SETTING A PROTOCOL/SYSTEM PROTOCOL

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application and in the alternative, the petition under 37 CFR 1.137(a) to revive the above-identified application. Both petitions were filed on November 4, 2005.

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

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

This application became abandoned for failure to timely submit a proper reply in response to the final Office action, mailed May 6, 2002, which set an extendable three month period for reply. On November 6, 2002, applicants obtained a three month extension of time and filed a Notice of Appeal. Thus, applicants had an extendable 2 month period to submit an appeal brief. On November 25, 2002, applicants filed an amendment after final which failed to place the application in *prima facie* condition for allowance, as was stated in the December 6, 2002 advisory action. On January 24, 2003, applicants purchased a one month extension of time and filed a supplemental amendment. On February 10, 2003, the examiner of record issued a supplemental advisory action that seemed to reverse course on certain claims that in the December 6, 2002 advisory action were deemed allowable for purposes of appeal. On June 6, 2003, a representative of applicants filed a communication that stated on May 6, 2003 a telephone conference took place

with the examiner and that during the conversation, the examiner stated that prosecution of the above-identified application would be re-opened. Based on this purported assurance, an appeal brief was not filed.

The application became abandoned on February 7, 2003. A Notice of Abandonment was mailed on October 6, 2005.

Petitioners request that the holding of abandonment be withdrawn for the reason that applicants' amendments did address the final rejection of May 6, 2002. Please find enclosed a courtesy copy of an Advisory Action Before the Filing of an Appeal Brief, which was created to address the November 4, 2005 amendment after final. As stated in the document, the November 4, 2005 amendment after final fails to place this application in *prima facie* condition for allowance. The examiner maintains that applicants' amendments to this point have not completely and properly addressed the May 6, 2002 final Office action.

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

Petitioners request consideration under 37 CFR 1.137(a) in the alternative.

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. 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 § 1.17(l); (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 (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

This petition does not satisfy requirements (1) and (3).

Regarding (1), as stated above, petitioners have not properly responded to the May 6, 2002 final Office action. Petitioners should consider filing a continuing application or a RCE as their reply. Or petitioners could submit an appeal brief.

Regarding (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the

response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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". 35 U.S.C. § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

In the instant case, petitioners have failed to provide adequate evidence that the delay was unavoidable. Petitioners assert that the delay was unavoidable because they contend the change in the examiner's position with respect to certain claims in the February 10, 2003 Advisory Action did not raise the necessity for a reply because the absence of a formal rejection made any substantive reply impossible and that applicants have been waiting for the examiner to reopen prosecution.

On June 3, 2003, petitioners filed a communication that alleged that the examiner informed an attorney prosecuting the application on May 6, 2003 that the case would be re-opened. Petitioners are reminded that official communication with the Office must be carried out in writing. 37 CFR 1.2. Oral advice from Office employees is not binding. See In re Sivertz, 227 USPQ 255,256 (Comm'r Pat. 1985).

The June 3, 2003 communication cannot nullify the fact that applicants have failed to submit amendments after final that placed the application in *prima facie* condition for allowance and petitioners have failed to file a proper follow-up submission to the Notice of Appeal.

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a).

Petitioners' failure to appreciate that the filing of proposed amendments under 37 CFR 1.116 did not relieve petitioners of the burden of timely filing a proper follow-up submission after the filing of the notice of appeal or other proper response to avoid abandonment of the above-identified application is unfortunate, but it is not unavoidable delay.

The abandonment of an application subject to a final Office action is not "unavoidable" within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a) in the situation in which the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. At 53162, 1203 Off. Gaz. Pat. Office at 89 (response to comment 66).

This line of reasoning applies to the current situation. Petitioners should have sought clarification as soon as petitioners received the Supplemental Advisory Action. Instead, petitioners waited until the last possible day to file a timely follow-up submission to the Notice of Appeal to file a communication stating that they were waiting for further action from the examiner in lieu of filing an Appeal Brief. Applicants allowed the maximum period for reply to expire while waiting for the examiner to re-open prosecution.

The petition under 37 CFR 1.137(a) is **dismissed**. Regarding fees, deposit account no. 22-0185 will be charged the required $250.00 petition fee.

Please keep in mind that if it becomes necessary to file a second Notice of Appeal, the fee submitted with the November 6, 2002 Notice of Appeal will be applied towards payment of the second Notice of Appeal.

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.

ALTERNATIVE VENUE

Petitioners should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $ 750.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must 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 application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), 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 1.137(b).

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: courtesy copy of an Advisory Action Before the Filing of an Appeal Brief, which was created to address the November 4, 2005 amendment after final

cc: STANLEY B. GREEN
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET, N.W., SUITE 800
WASHINGTON, DC 20036-3425

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SUITE 800
1990 M STREET NW
WASHINGTON DC 20036-3425

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Fredriksson, et al. :
Application No. 09/171,013 :
Filed: October 9, 1998 :
Attorney Docket No. 20260-00045-US :
For: METHOD AND EQUIPMENT FOR SETTING A PROTOCOL/SYSTEM PROTOCOL

This is a decision on the petition under 37 CFR 1.137(b), filed on December 30, 2005 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply in response to the final Office action, mailed May 6, 2002, which set an extendable three month period for reply. On November 6, 2002, applicants obtained a three month extension of time and filed a Notice of Appeal. Thus, applicants had an extendable 2 month period to submit an appeal brief. On November 25, 2002, applicants filed an amendment after final which failed to place the application in *prima facie* condition for allowance, as was stated in the December 6, 2002 advisory action. On January 24, 2003, applicants purchased a one month extension of time and filed a supplemental amendment. On February 10, 2003, the examiner of record issued a supplemental advisory action that seemed to reverse course on certain claims that in the December 6, 2002 advisory action were deemed allowable for purposes of appeal. On June 6, 2003, a representative of applicants filed a communication that stated on May 6, 2003 a telephone conference took place with the examiner and that during the conversation, the examiner stated that prosecution of the above-identified application would be re-opened. Based on this purported assurance, an appeal brief was not filed.

The application became abandoned on February 7, 2003. A Notice of Abandonment was mailed on October 6, 2005.

Applicants have submitted a RCE and required fee and amendment, an acceptable statement of the unintentional nature of the delay,[1] and the petition fee. The petition is granted.

After the mailing of this decision the application will be forwarded to Technology Center AU 2151 for consideration of the RCE and amendment filed on December 30, 2005.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

[1] The statement of unintentional delay presented in the petition does not comply with the current rule. 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" 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 CFR 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.

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

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OFFICE OF PETITIONS

In re Patent No. 7,188,162 :
Issue Date: 6 March, 2007 :
Application No. 09/171,013 : DECISION
Filed: 9 October, 1998 :
Attorney Docket No. 21406-00023-US1

This is a decision on the petition filed on 14 November 2008, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

> **NOTE**: Petitioner is reminded that the regulations require that Petitionerset forth both the application number and the patent number when submitting materials for a patented matter;

Petitioner's submission is **accepted**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to IFW Files Repository.

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

11 APR 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Ronald L. Grudziecki
BURNS, DOANE, SWECKER & MATHIS
P.O. Box 1404
Alexandria, Virginia 22313

In re Application of JOHANSSON et al. U.S. Application No. 09/171,520 PCT No.: PCT/SE97/00696 Int. Filing Date: 25 April 1997 Priority Date: 02 May 1996 For: AN APERTURED COVERING SHEET FOR AN ABSORBENT ARTICLE AND A METHOD OF PRODUCING THE COVERING SHEET	DECISION ON PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "LETTER RE NOTIFICATION OF MISSING REQUIREMENTS" filed 02 September 1999, which is being treated as a petition under 37 CFR 1.181 requesting withdrawal of the Notification of Missing Requirements mailed by the Office on 19 May 1999. No petition fee is required.

BACKGROUND

On 25 April 1997, applicant filed the above-captioned international application which claimed a priority date of 02 May 1996 and designated the United States. A Demand for international preliminary examination in which the United States was elected was filed prior to the expiration of 19 months from the priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 November 1998.

On 21 October 1998, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee and a copy of the international application.

On 19 May 1999, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an executed oath or declaration in compliance with 37 CFR 1.497 was omitted. A new oath or declaration in compliance with 37 CFR 1.497 and a surcharge

for providing the oath or declaration later than 30 months from the priority date were required. The notification set a ONE (1) MONTH period for response.

On 02 September 1999, applicants filed the present "LETTER RE NOTIFICATION OF MISSING REQUIREMENTS" stating that "[t]he executed Declaration was submitted to the U.S. Patent & Trademark Office on November 9, 1998." The "LETTER RE NOTIFICATION OF MISSING REQUIREMENTS" was accompanied by a copy of the executed declaration.

DISCUSSION

A. Petition Under 37 CFR 1.181

Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "If a receipt of any paper filed in the Patent and Trademark Office is desired, it may be obtained by enclosing with the paper a self-addressed postcard identifying the paper. The Patent and Trademark Office will stamp the receipt date on the card and place it in the outgoing mail.
>
> The identifying data on the card should be so complete as to clearly identify the paper for which receipt is requested. For example, the card should identify the applicant's name(s), serial number, filing date, interference number, etc., and the paper(s) should be identified by specifying the type thereof, namely affidavit, amendment, appeal, components of applications, brief, drawings, fees, motions, supplemental oath or declaration, petition, etc. ...
>
> 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."

As stated above, the best evidence of what was actually received by the Office on a particular date is a copy of returned date stamped postcard receipt that was filed with papers in question and contains a specific itemization of all items being submitted. In the present instance, applicant has not provided any evidence, such as a date stamped return receipt post card, that evidences receipt by the Office of the original declaration filed on 09 November 1998.

B. Response to the Notice of Missing Requirements

A proper response to the Notice of Missing Requirements mailed 19 May 1999 was due by 21 June 1999 (19 June 1999 was a Saturday). On 02 September 1999, applicants filed the present "LETTER RE NOTIFICATION OF MISSING REQUIREMENTS" which was accompanied by a copy of the executed declaration. Therefore, applicant's Deposit Account No. 02-4800 has been

charged a three-month extension of time fee (870.00), as authorized in the second transmittal letter under 35 CFR 371.

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 is **DISMISSED** without prejudice. However, with the submission of the executed declaration on 02 September 1999, applicant has completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

As the declaration was filed after 30 months from the priority date, the required surcharge of $130 under 37 CFR 1.492(e) has been charged to Deposit Account No.02-4800.

This application will be given an international application filing date of 25 April 1997 and a date of **02 September 1999** under 35 U.S.C. 371 and 102(e).

This application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
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Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

ERIC MIRABEL
BIOARRAY SOLUTIONS, LTD.
35 TECHNOLOGY DRIVE
WARREN, NJ 07059

COPY MAILED
MAR 14 2006
OFFICE OF PETITIONS

In re Patent No. 6,251,691	:	
Michael Seul	:	
Issue Date: June 26, 2001	:	DECISION DISMISSING
Application No. 09/171,550	:	PETITION
Filed: October 26, 1998	:	
Atty Docket No. 0973/1B889-U	:	

This is in response to the "Petition to Revive" filed February 13, 2006, which is properly treated as a petition under 37 CFR 1.377 to accept and record a maintenance fee. Patentee submits evidence that the petition was earlier filed on September 28, 2005.

The patent issued June 26, 2001. The grace period for paying the 3 ½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on June 26, 2005, with no payment made of record in this patent.

Petitioner asserts that an authorization to charge the maintenance fee and surcharge to a Deposit Account was timely submitted by facsimile on February 10, 2005. Petitioner states that a copy of the fax and the receipt is attached showing the authorization.

37 CFR § 1.8(b) provides that:

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.

Requirement (3) is at issue. Petitioner states that a "receipt" is among the items filed on petition; however, no "receipt" of filing is present in the application file. A copy of the facsimile confirmation is requested.

Accordingly, the decision on petition to accept and record a maintenance fee is **DISMISSED** without prejudice to reconsideration upon submission of a persuasive facsimile confirmation.

Alternatively, patentee may respond with a request that the Office proceed with the alternative request to accept the maintenance fee pursuant to § 1.378.

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 §1.136(a) are not permitted. This period for reply is governed by §1.183.

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

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

By fax: (571) 273-8300
ATTN: Office of Petitions

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

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 20

ERIC MIRABEL
BIOARRAY SOLUTIONS, LTD.
35 TECHNOLOGY DRIVE
WARREN, NJ 07059

COPY MAILED
APR 11 2006
OFFICE OF PETITIONS

In re Patent No. 6,251,691	:	
Michael Seul	:	
Issue Date: June 26, 2001	:	DECISION ON
Application No. 09/171,550	:	PETITION
Filed: October 26, 1998	:	
Atty Docket No. 0973/1B889-U	:	

This is in response to the "Petition to Revive: Following Decision Dismissing Petition" which is properly treated as a renewed petition under 37 CFR 1.377 to accept and record a maintenance fee. The petition filed September 28, 2005, including a copy of the "Auto-Reply Facsimile Transmission" is now of record in the application.

The patent issued June 26, 2001. The grace period for paying the 3 ½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on June 26, 2005, with no payment made of record in this patent.

Petitioner asserts that an authorization to charge the maintenance fee and surcharge to a Deposit Account was timely submitted by facsimile on February 10, 2005. However, by decision mailed March 14, 2006, the petition received February 13, 2006 (with evidence of earlier filing on September 28, 2005) was dismissed because petitioner's evidence, a copy of the fax

and the receipt is attached showing the previous authorization, was not among the papers received with the petition. See 37 CFR § 1.8(b)(3).

On instant renewed petition (and with the copy of the petition filed September 28, 2005 now present in the application file), petitioner established that the payment of the maintenance fee should be considered filed by facsimile on February 10, 2005. This was within the window for payment with surcharge of $65.

In view thereof, the petition under § 1.377 is **granted**.

The first maintenance fee is accepted and is of record as timely filed on February 10, 2005.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
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

Mailed: MAY 10 2001

BB
Paper Number 24

In re application of
Preikschat, Patricia et al
Serial No. 09/171,558
Filed: March 29, 1999
For: CHROMIUM (VI)- FREE CONVERSION LAYER AND METHOD FOR PRODUCING IT

DECISION ON PETITION

This is a decision on the **PETITION UNDER CFR 1.84**, filed February 01,2001 to permit entry of color photographs since 1) three sets of the photographs have been filed, 2) the specification contains the language set forth in C.F.R. 1.84 (a) (2) (iv), 3) the required fee has been paid under 37 CFR 1.17(h), and 4) an explanation is provided stating why color photographs are necessary. It is pointed out that the color drawing(s) are of Figure(s) **1-4**.

A review of the application record indicates that all of the requirements for acceptance color photographs have been met.

The petition is **GRANTED**.

Christine Skane Tierney
Special Program Examiner
Technology Center 1700

Pearne Gordon McCoy & Granger LLP
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Suite 1200
Cleveland, OH 44114-1484

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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#15

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SAN DIEGO , CA 92122-1246

In re Application of	:
Hubert Koster et al	:
Serial No.: 09/171,625	: PETITION DECISION
Filed: July 2, 1999	:
Attorney Docket No.: 24743-2302US	:

This is in response to applicants' petition under 37 CFR 1.144, filed April 26, 2001, requesting withdrawal of an improper lack of unity requirement. The delay in acting on this petition is regretted.

A review of the file history shows that this application was filed under 35 U.S.C. 371 as the National Phase of PCT/US97/06509 which claims priority to Provisional application 60/015,699, filed April 17, 1996. The application, as filed, contains claims 1-36. In a first Office action mailed September 5, 2000, the examiner set forth a restriction/lack of unity requirement under 35 U.S.C. 121 dividing the claims into four groups, as follows:

> Group I, claims 1, 3-4 and 11-16, drawn to a process of generating a combinatorial set of molecules of Core structure M;
> Group II, claims 2 and 5-16, drawn to a process of generating a combinatorial set of oligomers;
> Group III, claims 17-19, drawn to an olionucleotide made from monomers of structure 49a;
> Group IV, claims 23-35, drawn to a combinatorial set of compounds of Core structure M..

Claims 20-22 were inadvertently omitted and should have been grouped with Group III and claim 36 should have been grouped with Group IV. The examiner stated that the claims lack unity under PCT Rule 13.2 as they lack a common special technical feature. The examiner identified the special technical feature for each Group as: the process of generating a combinatorial set of molecules of structure M for Group I; the generating of oligomers for Group II; the oligonucleotide of structure 49a for Group III; and the combinatorial set of compounds of structure M for Group IV. The examiner further required an election of a disclosed species within each of the four groups above.

Applicants replied by electing Group I and traversing the Lack of Unity requirement on the basis that Group I should be combined with Group IV as the special technical feature, core M, is the same and that Group II should be combined with Group III as they both have as the special technical feature the oligomer. The sets are each related as product and process of making the product. Applicants also argued that the requirement for election of species in a Notional Phase application is improper in view of the PCT Rules.

The examiner in the next Office action, mailed February 26, 2001, maintained the restriction requirement for the reasons of record without directly addressing the election of species requirement and made the requirement Final. The examiner acted on claims 1, 3-4 and 11-16 rejecting them under 35 U.S.C. 112, first and second paragraphs and under 35 U.S.C. 102(b) as anticipated by Montal et al, Saul et al and Stengele et al. Applicants then filed this petition which again traverses the Lack of Unity requirement between Groups I and IV. Applicants appear to acquiesce in the restriction between Group I and IV and Groups II and III. Applicants continue to traverse the requirement for an election of species.

DISCUSSION

The applicable guidance for making lack of unity/restriction requirements is set forth below:

Annex B of the PCT Administrative Instructions gives guidance on Unity of Invention as follows:

(a) Unity of Invention. Rule 13.1 deals with the requirement of unity of invention and states the principle that an international application should relate to only one invention or, if there is more than one invention, that the inclusion of those inventions in one international application is only permitted if all inventions are so linked as to form a single general inventive concept.
(b) Technical Relationship. Rule 13.2 defines the method for determining whether the requirement of unity of invention is satisfied in respect of a group of inventions claimed in an international application. Unity of invention exists only when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression special technical features is defined in Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. The determination is made on the contents of the claims as interpreted in light of the description and drawings (if any).
(c) Independent and Dependent Claims. Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By dependent claim is meant a claim which contains all the features of another claim and is in the same category of claim as that other claim (the expression category of claim referring to the classification of claims according to the subject matter of the invention claimed for example, product, process, use or apparatus or means, etc.).
(I) If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention. ****
(ii) If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an objection of lack of unity a posteriori (that is, arising only after assessment of the prior art) may be raised. ***
(iii) This method for determining whether unity of invention exists is intended to be applied even before the commencement of the international search. Where a search of the prior art is made, an initial determination of unity of invention, based on the assumption that the claims avoid the prior art, may be reconsidered on the basis of the results of the search of the prior art.
(d) Illustrations of Particular Situations. There are three particular situations for which the method for determining unity of invention contained in Rule 13.2 is explained in greater detail:

(l) combinations of different categories of claims;

****

Principles for the interpretation of the method contained in Rule 13.2, in the context of each of those situations are set out below. It is understood that the principles set out below are, in all instances, interpretations of and not exceptions to the requirements of Rule 13.2 . Examples to assist in understanding the interpretation on the three areas of special concern referred to in the preceding paragraph are set out below.

(e) Combinations of Different Categories of Claims. The method for determining unity of invention under Rule 13 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:

(l) in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product, *** it being understood that a process is specially adapted for the manufacture of a product if it inherently results in the product *** Thus, a process shall be considered to be specially adapted for the manufacture of a product if the claimed process inherently results in the claimed product with the technical relationship being present between the claimed product and claimed process. The words specially adapted are not intended to imply that the product could not also be manufactured by a different process. Also an apparatus or means shall be considered to be specifically designed for carrying out a claimed process if the contribution over the prior art of the apparatus or means corresponds to the contribution the process makes over the prior art. Consequently, it would not be sufficient that the apparatus or means is merely capable of being used in carrying out the claimed process. However, the expression specifically designed does not imply that the apparatus or means could not be used for carrying out another process, nor that the process could not be carried out using an alternative apparatus or means.

Applicants argue that the Lack of Unity requirement is improper in view of the fact that Groups I and IV have the same special technical feature, namely compounds of Core structure M and that they are related as product and process of making the product. Applicants are correct in their assertion. No Lack of Unity should have been made between the claims of Groups I and IV. The determination that the claims of Group I do not avoid the prior art, as set forth in the second Office action may infer a Lack of Unity does, in fact, exist. However, should the claims of Group I be later found to avoid the prior art, rejoinder of the claims of Group IV with those of Group I would be required. Thus it is better to conduct the examination of all of the claims of both groups concurrently with patentability of each Group being determined independently.

With respect to the requirement to elect a single disclosed species for purposes of examination, such is not within the provisions of PCT Rule 13. The examiner may hold that a claim contains more than one distinct invention within its scope based on differing special technical features (for example a fused carbocyclic ring structure and a fused heterocyclic ring structure in the same claim would support a determination that they are separate and distinct special technical features). However, the examiner herein has not alleged that there are multiple special technical features in any of the claims, but has held that core structure M, as suggested by applicants, is the special technical feature common to all of the compounds. This, however, does not forestall the examiner from requesting applicants' assistance in determining an initial proper field of search for the claimed invention(s), which may be expressed in a manner similar to an election of species or in other ways. However, for the examiner to maintain an election of species requirement or to limit the examination to only the preferred embodiment identified by applicants is improper. It is noted that although applicants traverse the election of species requirement set forth in the first Office in reply thereto, the examiner fails to comment on it except to correct an inadvertent omission with respect to the claims of Group IV. It does appear, however, that the examiner did not withdraw the election of species requirement.

Applicants argument that the examiner's making the Lack of Unity requirement Final in the second Office action is premature is not well taken. The Statute and Rules provide for an examination and reexamination of an application and that any action of the examiner which is repeated can be made a Final action. Herein, the second action, but first on the merits of patentability of the claims, had an affirmation by the examiner of the Lack of Unity requirement previously set forth and therefor could properly be made Final without the balance of the Office action being made Final.

DECISION

Applicants' petition is **GRANTED**. The Lack of Unity requirement with respect to Groups I and IV is withdrawn as is the requirement for an election of species. Groups II and III remain withdrawn from consideration as Lacking Unity of Invention with Groups I and IV.

The application will be forwarded to the examiner for examination of the claims of Groups I and IV, claims 1, 3-4, 11-16 and 23-26.

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

John Doll
Director, Technology Center 1600

UNITED STATES
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TRADEMARK OFFICE

AUG 29 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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#25

In re Application of	:
Hubert Köster et al	:
Serial No.: 09/171,625	: PETITION DECISION
Filed: July 2, 1999	:
Attorney Docket No.: 24743-2302	:

This is in response to the petition under 37 CFR 1.181, filed July 10, 2002, requesting withdrawal of the Finality of the last Office action.

A review of the file history shows that this application was filed under 35 U.S.C. 371 as the National Phase of PCT/US97/06509 which claims priority to Provisional application 60/015,699, filed April 17, 1996. The application, as filed, contains claims 1-36. In a first Office action mailed September 5, 2000, the examiner set forth a restriction/lack of unity requirement.

Applicants replied by electing Group I and traversing the Lack of Unity requirement by arguing that the requirement for election of species in a National Phase application is improper in view of the PCT Rules.

The examiner in the next Office action, mailed February 26, 2001, maintained the restriction requirement and made the requirement Final. The examiner acted on claims 1, 3-4 and 11-16 rejecting them under 35 U.S.C. 112, first and second paragraphs and under 35 U.S.C. 102(b) as anticipated by Montal et al, Saul et al and Stengele et al. Applicants then filed a petition with respect to the restriction requirement which was decided on September 6, 2001, and in which Groups I and IV were indicated as not subject to restriction under prosecution rules associated with applications filed under 35 U.S.C. 371. The examiner mailed a new Office action to applicants on December 4, 2001, setting forth a "new" restriction requirement but which was essentially identical to the first restriction requirement as to Groups I and IV (now Groups I and II) which were indicated as non-restrictable in the petition decision. Applicants elected to prosecute Group I and canceled the claims of Group IV. The examiner then mailed a new Office action to applicants on May 14, 2002, setting forth new rejections under 35 U.S.C. 112, first paragraph, for lack of description and lack of enablement and made the Office action Final. Applicants replied with this petition asking that the finality be withdrawn.

DISCUSSION

A review of the penultimate Office action on the merits, mailed February 26, 2001, shows that claims 1, 3-4 and 11-16 were elected and prosecuted, all other claims being withdrawn from prosecution. The examiner rejected claims 1, 3-4 and 11-16 under 35 U.S.C. 101 for lack of a specific or well-established utility and under 35 U.S.C. 112, first paragraph, for the same reasons. Additional rejections were made under 35 U.S.C. 112, first paragraph, for lack of description of the claimed invention in the specification, and for lack of enablement, and under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the invention. The claims were also rejected under 35 U.S.C. 102(b) as anticipated by Montal et al, Saul et al or Stengele et al. In reply, applicants amended claims 4, 11-16 and 26-28 while canceling claims 1-3, 5-10 and 17-25 and presented arguments with regard to each rejection. Following the petition decision the examiner mailed an Office action setting forth only a restriction requirement and not addressing applicants' arguments. Applicants replied with a proper election. The examiner mailed the next Office action to applicants on May 14, 2002, setting forth rejections under 35 U.S.C. 112, first paragraph, for lack of description and lack of enablement, but for different reasons than previously set forth. The examiner made the Office action Final including a statement that applicants' amendments necessitated the new grounds of rejection.

Applicants note that no amendments were made in response to the last Office action (the restriction requirement), but only in response to the Office action that preceded it. Applicants point out in their petition that claim 4, the main independent claim, is a combination of original claims 1, 3 and 4 and does not contain any new limitations. Claim 15, as amended, merely changes verb tense and is thus little different from original claim 15. The other claims remain essentially identical to the original claims except for dependency. Thus the claims could have been rejected for the reasons set forth in the last Office action in an earlier Office action, but were not. Further, the examiner's presentation of a restriction requirement on third action with no reference to applicants' amendments or arguments would lead applicants to presume that the arguments overcame the rejections of record. To then present new reasons for rejection which could have been previously presented proscribes applicant from having a proper opportunity to respond thereto.

DECISION

Applicants' petition is **GRANTED.** **The finality of the Office action mailed May 14, 2002, is withdrawn.**

Applicants remain under obligation to respond properly to the Office action mailed May 14, 2002, within the time period set therein, or as may be extended under 37 CFR 1.136(a).

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
www.uspto.gov

Paper No. 10

James O. Ray, Jr.
2640 Pitcairn Road
Monroeville, PA 15146

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OFFICE OF PETITIONS

In re Application of	:	
Jan-Ove Persson	:	
Application No. 09/171,889	:	ON PETITION
Filed: October 28, 1998	:	
Attorney Docket No. SG98519	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 10, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight July 10, 2000.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, and an amendment.

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 petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3738, for review of the amendment filed with the instant petition.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 47

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COPY MAILED

DEC 09 2004

OFFICE OF PETITIONS

In re Application of	:	
Van Dijk et al.	:	
Application No. 09/171,910	:	DECISION
International Filing Date:	:	ON PETITION
April 27, 1995	:	
371 Date: March 18, 1999	:	
Title of Invention: PLASTIC-BASED	:	
COMPOSITE PRODUCT AND METHOD AND	:	
APPARATUS FOR MANUFACTURING SAME	:	

This is a decision in response to the Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed November 30, 2004.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. **This time period may not be extended.**

Background:

Applicant filed a Request for Continued Examination (RCE) under 37 CFR 1.114 on July 11, 2002 in the above-identified application, which is the National Stage of an International Application filed on April 27, 1995. The RCE was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. See 37 CFR 1.114(e)(3).

A request for continued examination is not a type of new application filing. See Request for Continued Examination Practice and Changes to Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092, 50097 (August 16, 2000). The Office cannot convert an improper RCE to an application, such as a continuing application under 37 CFR 1.53(b) or (d). An improper RCE will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. See Manual for Patent Examining Procedure

(MPEP) 706.07(h), page 700-70, subsection III.A., "Treatment of Improper RCE", (8th Ed. 2001).

In the instant case, a final Office action was mailed on March 14, 2002. Under 35 U.S.C. § 133, an applicant has six (6) months to reply to an Office action. Upon failure to prosecute the application within six months of notice of the Office action, the application shall be regarded as abandoned. This statutory requirement may not be waived by the Office. The filing of the improper RCE on July 11, 2002 did not toll the time period set forth in the Office action mailed on March 14, 2002. Thus, the application became **abandoned on September 17, 2002** for the failure to reply to the Office action mailed on March 14, 2002.

The Office, however, mistakenly treated the improper RCE as a proper RCE and reopened the prosecution of the application. A non-final Office action was mailed on October 4, 2002. An Amendment was filed on January 6, 2003. A final Office action was mailed on March 25, 2003. A Notice of Appeal and an Amendment, along with an extension of time were filed on September 26, 2003. An Advisory Action was mailed on October 28, 2003. A second improper RCE was filed on November 24, 2003. A Notice of Allowance and Notice of Allowability were mailed on February 9, 2004 and February 11, 2004 respectively.

Applicant was advised in a Notice Regarding Improper RCE, mailed November 5, 2004, the RCE was improper, and advised to file a petition under 37 CFR 1.137(b) and a terminal disclaimer and fee as set forth in 37 CFR 1.321 because the application was filed before June 8, 1995.

<u>The instant petition</u>

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); (**2**) the petition fee required by 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**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (**1**).

As to item (**4**), Applicant files the instant petition but has failed to include the terminal disclaimer as required by 37 CFR 1.137(d). Applicant has noted in the petition that this is a utility or plant application filed on or after June 8, 1995, and

as such, a terminal disclaimer is not required. However, the effective filing date of the application is April 27, 1995. Accordingly, a terminal disclaimer and fee as set forth in 37 CFR 1.321 is required.

Any request for reconsideration of petition under 37 CFR 1.137(b) should be addressed as follows:

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

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

By hand: 220 20th Street S.
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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

Derek L. Woods
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH, GAMBRELL & RUSSELL, LLP
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Van Dijk et al. :
Application No. 09/171,910 : DECISION
International Filing Date: : ON PETITION
April 27, 1995 :
371 Date: March 18, 1999 :
Title of Invention: PLASTIC-BASED :
COMPOSITE PRODUCT AND METHOD AND :
APPARATUS FOR MANUFACTURING SAME :

This is a decision in response to the Request for reconsideration of the decision on Petition for Revival of an Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed January 12, 2005.

This Petition is hereby **granted**.

Background

Applicant filed a Request for Continued Examination (RCE) under 37 CFR 1.114 on July 11, 2002 and a second RCE on November 24, 2003 in the above-identified application, which is the National Stage of an International Application filed on April 27, 1995. The RCE was improper because the provisions of 37 CFR 1.114 do not apply to an international application filed under 35 U.S.C. 363 before June 8, 1995. See 37 CFR 1.114(e)(3).

A request for continued examination is not a type of new application filing. See Request for Continued Examination Practice and Changes to Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092, 50097 (August 16, 2000). The Office cannot convert an improper RCE to an application, such as a continuing application under 37 CFR 1.53(b) or (d). An improper RCE will not operate to toll the running of any time period set in the previous Office action for reply to avoid abandonment of the application. See Manual for Patent Examining Procedure (MPEP) 706.07(h), page 700-70, subsection III.A., "Treatment of Improper RCE", (8th Ed. 2001).

In the instant case, a final Office action was mailed on March 14, 2002. Under 35 U.S.C. § 133, an applicant has six (6) months to reply to an Office action. Upon failure to prosecute the application within six months of notice of the Office action, the application shall be regarded as abandoned. This statutory requirement may not be waived by the Office. The filing of the improper RCE on July 11, 2002 did not toll the time period set forth in the Office action mailed on March 14, 2002. Thus, the application became **abandoned on July 16, 2002** for the failure to reply to the Office action mailed on March 14, 2002.

The Office, however, mistakenly treated the improper RCE as a proper RCE and reopened the prosecution of the application. A non-final Office action was mailed on October 4, 2002. An Amendment was filed on January 6, 2003. A final Office action was mailed on March 25, 2003. A Notice of Appeal and an Amendment, along with an extension of time were filed on September 26, 2003. An Advisory Action was mailed on October 28, 2003. A second improper RCE was filed on November 24, 2003. A Notice of Allowance and Notice of Allowability were mailed on February 11, 2004.

Applicant was advised in a Notice Regarding Improper RCE, mailed July 26, 2004, the RCE was improper, and advised to file a petition under 37 CFR 1.137(b) and a terminal disclaimer and fee as set forth in 37 CFR 1.321 because the application was filed before June 8, 1995.

Applicant filed a petition to revive the application based upon unintentional abandonment of the application on August 30, 2004. The petition was dismissed in a Decision mailed December 9, 2004, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

Discussion

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law, (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional", and (4) a terminal disclaimer (and fee set forth in § 120(d)) is required pursuant

to paragraph (c) of this section (for applications filed before June 8, 1995).

Applicant has satisfied Items (1) through (4). With regard to subsection (4), since the above-identified application is a utility application filed before June 8, 1995, 37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of any term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. The period to be disclaimed will be a terminal part of the patent to be granted equivalent to the period of abandonment. The period of abandonment will be computed to be the number of months lapsed from the date of abandonment to the date when this application issued as a patent. A Terminal disclaimer fee of $110 is required and has been provided. The Terminal Disclaimer filed on January 12, 2005 has been accepted.

All of the requirements of 37 CFR 1.137(b) have now been met. Accordingly, applicant's petition to revive is granted.

The application is being referred to publications branch for processing into a patent.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SMITH, GAMBRELL & RUSSELL, LLP
1230 PEACHTREE STREET, N.E.
SUITE 3100, PROMENADE II
ATLANTA, GA 30309-3592

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FEB 09 2006

OFFICE OF PETITIONS

In re Patent of Van Dijk et al. :
Patent No. 6,929,841 :
Issue Date: August 16, 2005 :
Application No. 09/171,910 :
Filing Date: March 18, 1999 :
Attorney Docket No. 044186.003 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.182 filed October 24, 2005.

The petition is **dismissed**.

Petitioner states that an error was made in the cover sheet for an assignment recorded with the PTO on October 28, 1999.

A petition under 37 CFR 1.182 is applicable when a situation is not specifically provided for in the regulations. However, the instant situation appears to be provided for by 37 CFR 3.34.

37 CFR 3.34 allows for the correction of errors on a recorded sheet.

An error may be corrected under 37 CFR 3.34 if:

(1) The error is apparent when the cover sheet is compared with the recorded document to which it pertains and

(2) A corrected cover sheet is filed for recordation. The corrected cover sheet must be accompanied by a copy of the document originally submitted for recordation and by the recording fee as set forth in 37 CFR 3.41.

Since relief is available under 37 CFR 3.34, the petition must be dismissed.

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

NIXON & VANDERHYE PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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NOV 2 9 2005

OFFICE OF PETITIONS

In re Application of	:
Smita K. Nair et al	:
Application No. 09/171,916	: DECISION GRANTING PETITION
Filed: February 16, 1999	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1579-312	:

This is a decision on the petition, filed November 23, 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 7, 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]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* **must** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

NOTICE RE: CERTIFICATES OF COR[illegible]TION

DATE : ~~5-24-01~~ 6-5-01

TO : Supervisor, Art Unit 3632

SUBJECT: Certificate of Correction Request in Patent No. Re. 36978

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 CFR 1.323 constitute new matter or require reexamination of the
- [x] 2. Would the change(s) requested under 37 CFR 1.323 Materially affect the scope or meaning of the claims a by the examiner in the patent?
- [x] 3. Applicant disagrees with change(s) initialed and dated by Examiner in lieu of an Examiner's Amendment. the change request be granted?
- [ ] 4. With respect to the change(s) requested, correcting Office errors, should the patent read as shown in the ce of correction?
- [ ] 5. If the amendment filed _____ had been considered by the Examiner, would the amendment have been entered?

PLEASE RESPOND WITHIN 7 DAYS AND RETURN THE FILE TO ROOM 918, PK III

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.

[x] 1.YES	[ ] NO	[ ] Comments below
[x] 2.YES	[ ] NO	[ ] Comments below
[x] 3.YES	[ ] NO	[ ] Comments below
[ ] 4.YES	[ ] NO	[ ] Comments below
[ ] 5.YES	[ ] NO	[ ] Comments below

PUBLISH

[ ] Comments Should this Request be granted or not?

Approved

Otis Chandler

Supervisor 6-1-01 Art Unit

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

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

Note

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Sheet 1 of 1

PATENT NO : Re. 36,978
DATED : December 5, 2000
INVENTOR(S) : Moscovitch

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

Column 2, line 13, add --be-- after "may".
Column 3, line 2, remove "/".
Column 3, line 15, remove "a" after "the".
Column 6, line 20, remove "titled" and insert --tilted--.
Column 8, line 4, insert --to-- after "mounted".
Column 12, line 9, delete "support means having" at beginning of sentence.

Mark D. Elchuk
MAILING ADDRESS OF SENDER:
Harness, Dickey & Pierce, P.L.C.
P. O. Box 828
Bloomfield Hills, MI 48303

PATENT NO. Re. 36,978

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comment on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : Re. 36,978
DATED : December 5, 2000
INVENTOR(S) : Moscovitch

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

Column 2,
Line 13, add -- be -- after "may".

Column 3,
Line 2, remove "/".

Column 3,
Line 15, remove "a" after "the".

Column 6,
Line 20, remove "titled" and insert -- tilted --.

Column 8,
Line 4, insert -- to -- after "mounted".

Column 12,
Line 9, delete "support means having" at beginning of sentence.

Signed and Sealed this

Eleventh Day of September, 2001

Attest:

Nicholas P. Godici

Attesting Officer

NICHOLAS P. GODICI
Acting Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : RE 36,978
DATED : December 5, 2000
INVENTOR(S) : Jerry Moscovitch

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

Column 12,
Line 8, at the beginning of paragraph b), insert -- support means having --

Signed and Sealed this

Tenth Day of May, 2005

Jon W. Dudas

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

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. 14

PETER F CORLESS
P O BOX 556
MARLBOROUGH, MA 01752

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MAR - 6 2002

OFFICE OF PETITIONS

In re Application of Martin T. Goosey et al Application No. 09/172,533 Filed: October 14, 1998 Attorney Docket No. 50278	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 22, 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). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 20, 2001, 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 April 21, 2001. See MPEP 1215.04.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

The application file is being forwarded to Technology Center AU 1762.

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

cc: PETER F CORLESS
EDWARDS & ANGELL
P.O. BOX 9169
BOSTON, MA 02209

JAN - 3 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

#18 DW

MAILED
JAN 3 2001
Office of the Director
Group 3600

Christopher John Rudy
209 Huron Ave.
Port Huron, MI 48060

Paper No. 18

In re Application of Richard H. Hall et al Application No. 09/172,577 Filed: October 13, 1998 Attorney Docket No.: Blanket-358 For: INERT GAS BLANKET FOR PROTECTION FROM OXIDATION	REQUEST TO RESET THE PERIOD FOR REPLY DUE DATE DUE TO A LATE POSTMARK

This is in response to applicants' request to reset the period for reply based upon a postmark date later than the mail date printed on the USPTO Office action filed in the United States Patent and Trademark Office on December 8, 2000. The request will be construed as a petition under 37 CFR §1.181.

The petition is **DENIED**.

Such a petition may be granted if the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the USPTO action at the correspondence address, (B) the reply period was for payment of the issue fee, or the reply period set was 1 month or 30 days; and (C) the petition includes (1) evidence showing receipt (e.g., copy of the USPTO action having the date of receipt of the action at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the USPTO action showing the postmark date, and (3) a statement setting forth the date of receipt of the action at the correspondence address and stating that the action was received in the postmarked envelope. See MPEP 710.06.

The petition lacks items (B) and (C)(3). The time period set in the last Office action therefore continues to run 3 months from the mail date of November 21, 2000. The application will be returned to Central Files to await applicants' reply to the Office action.

Inquiries related to this decision may be directed to Special Programs Examiner Randolph A. Reese at (703) 308-2121.

Al Lawrence Smith, Director
Patent Technology Center 3600
(703) 308-1020
Facsimile No.: (703) 306-4597

ALS:rr;1/2/01

OCT - 3 2001

#31
DW

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

Christopher John Rudy
209 Huron Ave.
Port Huron, MI 48060

MAILED
OCT - 3 2001
Office of the Director
Group 3600

In re Application of Richard H. Hall et al. SERIAL NO: 09/172,577 FILED: October 13, 1998 FOR: INERT GAS BLANKET FOR PROTECTION FROM OXIDATION	:	DECISION ON PETITION TO MAKE APPLICATION SPECIAL (AGE)

This is a decision on your petition submitted on September 27, 2001 to make the above referenced application special on the basis that applicant is over 65 years of age.

The petition has been found to comply with all requirements of section 708.02, part IV of the Manual of Patent Examining Procedures, and will be GRANTED for that reason.

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.

The application is being forwarded to the examiner for accelerated examination consistent with the provisions of section 708.02 of the MPEP.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
dw/kd: 10/02/01

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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NOV - 3 2003

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NOV - 3 2003
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TC 3600

CHRISTOPHER JOHN RUDY
209 HURON AVE
PORT HURON, MI 48060

Paper No. 55

In re Application of	:	
Richard H. Hall et al	:	DECISION ON PETITION
Application No. 09/172,577	:	UNDER 37 CFR §1.181
Filed: October 13, 1998	:	
Attorney Docket No.: 5434	:	
For: INERT GAS BLANKET FOR	:	
PROTECTION FROM OXIDATION	:	

This is a decision on appellants' petition under 37 CFR 1.181 filed June 11, 2003 requesting that the declaration under 37 CFR 1.131 filed June 24, 2002 be entered.

The petition is **GRANTED.**

The record reflects that on November 10, 1999 a non-final Office action was mailed requiring: restriction between Group I , claims 16-20, directed to a method of providing inert gas blanket to a machine have oleaginous liquid, and Group II, claims 21-36, directed to an apparatus of protected item with inert gas; and upon telephonic election of Group I rejecting claims 17-20 under 35 USC 112, second paragraph, rejecting claims 16-18 under 35 USC 102(b), and rejecting claims 19 and 20 under 35 USC 103. On February 10, 2000 an interview was held. On February 14, 2000 appellants' filed an amendment amending claims16, 17, 19, and 20, canceling claim 18, 21-38, 40, 41, 44, 45, 48, and 49 and adding claims 38-53 and arguing the rejections of record. On February 25, 2000 appellants' filed a letter stating the substance of the interview. On June 1, 2000 a final Office action was mailed withdrawing claims 54-60 as being drawn to a method of controlling combustion in a fuel tank, rejecting claims 16, 17, 39, 42, 43, and 47 under 35 USC 112, first paragraph, rejecting claims 17, 39, 43, 46, and 47 under 35 USC 112, second paragraph, claim 16 under 35 USC 102(b), and claims 16, 17, 19, 20, 39, 42, 43, 46, 47, and 50-53 under 35 USC 103. On September 21, 2000 appellants' filed an amendment under 37 CFR 1.116 amending claims 17, 19, 20, 46, 47, 51, and 52, canceling claims 54-60, and adding claims 61-67. On October 2, 2000 an Advisory Action was mailed denying entry of the amendment under 37 CFR 1.116. On October 10, 2000 a Continued Prosecution Application was filed. On November 21, 2000 a non-final Office action was mailed objecting to the amendment filed February 14, 2000 under 35 USC 132, rejecting claims 16, 17, 19, 20, 39, 42, 43, 46, 47, and 51-53 under 35 USC 112, first paragraph, rejecting claim 16 under 35 USC 102(b), rejecting claims 16, 17, 19, 20, 39, 42, 43, 46, 47, 50-53, and 61 under 35 USC 103, allowing claims 64-67, and

objecting to claims 62 and 63 as containing allowable subject matter. On February 26, 2001 appellants' filed an amendment amending claims 62, 63, 66, and 67, adding claim 68 and arguing the objections and rejections set forth in the previous Office action. On May 2, 2001 a final Office action was mailed objecting to the amendment filed February 14, 2000 under 35 USC 132, rejecting claims 16, 17, 19, 20, 39, 42, 43, 46, 47, and 51-53 under 35 USC 112, first paragraph, rejecting claims 16 and 68 under 35 USC 102(b), rejecting claims 16, 17, 19, 20, 39, 42, 43, 46, 47, 50-53, and 61 under 35 USC 103, allowing claims 64-67, and objecting to claims 62 and 63 as containing allowable subject matter. On July 25, 2001 a request for reconsideration was filed. On July 27, 2001 an Advisory Action was mailed stating that the request for reconsideration was not persuasive. On July 27, 2001 appellants' filed a supplemental response. On August 1, 2001 an Advisory Action was mailed stating that the request for reconsideration was not persuasive. On August 2, 2001 appellants' filed a Notice of Appeal. On September 27, 2001 appellants' filed an Appeal Brief. On October 3, 2001 an Examiner's Answer was mailed. On January 29, 2002 appellants' filed a Reply Brief. On February 12, 2002 the reply brief was noted by the examiner. On June 11, 2002 the application was remanded to the examiner for consideration of an Information Disclosure Statement (IDS) filed July 27, 2001. On June 28, 2002 a letter indicating the examiner had considered the IDS of July 27, 2001 was mailed. On June 24, 2002 appellants' filed a declaration. On July 16, 2002 a letter, which treated the declaration as an IDS, was mailed indicating that the information submitted June 24, 2002 had not been considered by the examiner. On July 31, 2002 a letter requesting consideration of the declaration filed June 24, 2002 was filed. On September 3, 2002 an IDS was filed by appellants'. On September 24, 2002 the application was remanded to the examiner for consideration of IDS filed September 3, 2002. On November 4, 2002 a letter was mailed stating the IDS file September 3, 2002 had been considered by the examiner. On February 26, 2003 the application was remanded to the examiner for clarification as to whether or not the declarations of June 24, 2002 and August 30, 2002 had been considered. On April 7, 2003 a letter was mailed indicating that the declaration file June 24, 2002 had not been entered and that the declaration filed August 30, 2002 had been entered.

Appellants' argue that the declaration is timely because the evidence being relied upon therein was published after the mailing of the Examiners Answer.

With regard to appellant's argument that the declaration is timely, MPEP 716.01 states that a declaration submitted under 37 CFR 1.131 and other evidence traversing rejections is considered timely if submitted after final rejection and submitted (i) with a first reply after final rejection for the purpose of overcoming a new ground of rejection or requirement made in the final rejection, or (ii) with a satisfactory showing under 37 CFR 1.116(b) or 37 CFR 1.195, or (iii) under 37 CFR 1.129(a). As the evidence relied upon in the declaration was published after the mailing of the Examiner's Answer appellants' have provided a proper showing under 37 CFR 1.116(b) or 37 CFR 1.195. Accordingly, the examiner will consider the declaration.

The petition is **GRANTED.**

The application will be returned to the examiner for immediate action consistent with this decision including the preparation of a letter addressing the declaration filed June 24, 2002.

Robert Oberleitner, Director
Patent Technology Center 3600
Telephone No.: (703) 308-1134
Facsimile No.: (703) 872-9327

dab:10-6-03

SM

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

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APR 11 2001

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Bish, Cantliffe, and Chandler
Application No. 09/172,689
Filed: 14 October, 1998
Attorney Docket No. UF-206X

: DECISION GRANTING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on 6 May, 1999. The Office apologizes for the delay in responding to the present petition.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of petitioners' attorney, David R. Saliwanchik establishes that the inventor was mailed a copy of the application papers but has failed to execute the declaration naming him as a joint inventor along with Daniel J. Cantliffe and Craig K. Chandler as joint inventors. Petitioners have also established that the non-signing joint inventor was sent two additional copies of the declaration, neither of which was properly executed.

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.

It is noted that the declaration does not properly state the non-signing inventor's address in that "Hill" is misspelled "Haile." A new oath or declaration properly reciting the non-signing inventor's address and signed by the two signing joint inventors on behalf of themselves and the non-signing inventor should be filed when required by the examiner.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the

Application No. 09/172,879

address given in the in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

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

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

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

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 14

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APR 11 2001

OFFICE OF PETITIONS
A/C PATENTS

Eric Bryan Bish
2008 New Hill Olive Chapel Road
New Hill, NC 27562

In re Application of
Bish et al.
Application No. 09/172,689
Filed: 14 October, 1998
For: Strawberry Transplant Conditioning for Flower Ing Induction

Dear Mr. Bish:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 20

Saliwanchik Lloyd & Saliwanchik
2421 N.W. 41st Street
Suite A-1
Gainesville, FL 32606

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DEC 2 4 2002

OFFICE OF PETITIONS

In re Application of
Bish et al.
Application No. 09/172,689
Filed October 14, 1998
Attorney Docket No. UF-206X

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 12, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 13, 2002.

This application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on December 12, 2002.

Telephone inquiries regarding this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 1661 for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/172,689	10/14/1998	ERIC BRYAN BISH	UF-206X	9616

23557 7590 02/13/2003

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 326066669

EXAMINER
MCCORMICK, SUSAN B

ART UNIT	PAPER NUMBER
1661	

DATE MAILED: 02/13/2003

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

Rescinded Final.

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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	: BILL WELLS	: DECISION ON REQUEST FOR
Patent Number	: 6219836	: RECALCULATION of PATENT
Issue Date	: 04/17/2001	: TERM ADJUSTMENT IN VIEW
Application No	: 09/172,743	: OF WYETH
Filed	: 10/14/1998	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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PATENT & TRADEMARK OFFICE

Paper 8

JOSEPH SOFER
SOFER & HAROUN
342 MADISON AVENUE
SUITE 1921
NEW YORK, NY 10173

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
David Baker et al.
Application No. 09/172,286
Filed: October 14, 1998
Attorney Docket No. 655-012
For: INTEGRATED MULTIMEDIA SYSTEM WITH LOCAL PROCESSOR, DATA TRANSFER SWITCH, PROCESSING MODULES, FIXED FUNCTIONAL UNIT, DATA STREAMER, INTERFACEUNIT AND MULTIPLEXER, ALL INTEGRATED ON MULTIMEDIA PROCESSOR

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 16, 2000.

The petition is granted.

Applicant has submitted copies of letters sent to co-inventor Vinay Naik dated September 9, 1999 and September 25, 2000 as well as proof of receipt. The letters included copies of the above identified application and the declaration for which they were seeking co-inventor Naik's signature. The transmittal of the application papers to the last known address for Mr. Naik demonstrates that the co-inventor has been notified of applicant's intent to file the above referenced application. Further, applicant has shown that co-inventor Naik has been given an opportunity but has refused to join in the filing of the above-identified application.

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

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

This file is being forwarded to the Office of Initial Patent Examination.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Patricia Faison-Ball at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan

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

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Paper No. 9

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AUG 1 8 2004
PATENT & TRADEMARK OFFICE

Mr. Vinay Naik
1235 Sutter Creek Trail
Austin, TX 78717

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
David Baker et al.
Application No. 09/172,286
Filed: October 14, 1998
Attorney Docket No. 655-012

LETTER

Dear Mr. Naik:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Patricia Faison-Ball at (703) 305-4497.

Patricia Faison-Ball
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

cc: JOSEPH SOFER
SOFER & HAROUN
342 MADISON AVENUE
SUITE 1921
NEW YORK, NY 10173

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GEORGE H GERSTMAN, ESQ
SEYFARTH SHAW
55 EAST MONROE STREET
CHICAGO, IL 60603

Mail Date: 07/02/2010

Applicant	: BILL WELLS	: DECISION ON REQUEST FOR
Patent Number	: 6488585	: RECALCULATION of PATENT
Issue Date	: 12/03/2002	: TERM ADJUSTMENT IN VIEW
Application No	: 09/172,787	: OF WYETH
Filed	: 10/14/1998	:
		:

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

Paper No. 11

MAR 23 2000

In re Application of
Alain Zanco
Application No. 09/172,830
Filed: October 15, 1998
Attorney Docket No. 2348-348

: DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on March 3, 2000 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated July 30, 1999.

The petition is DISMISSED.

Petitioner alleges that a timely reply to the Office letter was in fact filed, together with a new poser of attorney and change of address, a certification under 37 CFR § 3.73(b) and a copy of an assignment document. Petitioner also alleges in the petition that these papers were filed in September, 1999. Petitioner further alleges that the petition is accompanied by proof of receipt of these papers by the Office. However, it appears that the only such proof filed with the petition is a copy of facsimile transmission confirmation listing these papers and indicating that the "Result" is "OK".

Correspondence is filed when received in the Office, 37 CFR § 1.6. The facsimile transmission confirmation sheet submitted with the petition merely indicates that a facsimile transmission was successfully transmitted, but does not serve as evidence of its timely receipt in the Office. While 37 CFR § 1.8(b)(3) makes reference to the use of a facsimile unit's report confirmation transmission as evidence to support a statement that the papers were in fact transmitted, 37 CFR § 1.8(b) is applicable by its terms only to papers filed in accordance with 37 CFR § 1.8(a), which requires that a certificate of mailing or of facsimile transmission (as is appropriate) be affixed to the correspondence. The copies of the correspondence submitted in support of the petition do not have a certificate of facsimile transmission affixed thereto.

Accordingly, there is presently no basis to find that a timely reply to the Office letter dated July 30, 1999 was in fact filed in the sense of having been received in the Office. The new power of attorney and change of address will be processed and given a date of March 3, 2000, the date of their receipt in the Office as part of the petition. Thereafter, the application will be returned

to storage as an abandoned file.

Any request for reconsideration of this decision must be filed within two months from the date of the decision, 37 CFR § 1.181(f).

PETITION DISMISSED.

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

JOHN MOETTELI
BUGNION S. A.
10, ROUTE DE FLORISSANT
CASE POSTALE 375
GENEVA, CH, SWITZERLAND
1211 GENEVA 12

VIA AIR MAIL

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 15

JOHN MOETTELI
BUGNION SA
10 ROUTE DE FLORRISSANT
CASE POSTALE 375 *via AIR MAIL*
GENEVA CH SWITZERLAND
1211 GENEVE 12 *par AVION*

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JUN 1 6 2000

SPECIAL PROGRAMS OFFICE
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In re Application of	:
Zanco	: DECISION DENYING
Application No. 09/172,830	: PETITION
Filed: October 15, 1998	:
Attorney Docket No. 2348-348	:

This is a decision on the petition filed by facsimile transmission May 12, 2000 which is being treated as a petition (1) under 37 CFR 1.181(a)(3) requesting the Director's[1] supervisory intervention and consideration of the decision of the Group Director of March 23, 2000 which refused to withdraw the holding of abandonment or, in the alternative, (2) under 37 CFR 1.183 seeking waiver of the rules such that timely receipt is accorded to a previous facsimile transmission lacking a certificate of transmission.

The petitions are denied.[2]

BACKGROUND

A non final Office action was mailed July 30, 1999, which set a shortened statutory period for reply of three months. As no reply was received, and

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[1]The Patent and Trademark Office Efficiency Act (Pub. L. 106-113, 113 Stat. 1501A-572) effective March 29, 2000, titles the [former] Commissioner as the Director, United States Patent and Trademark Office.

[2] This decision may be treated as a final agency action within the meaning of 5 USC § 704 for purposes of seeking judicial review. See MPEP 1002.02.

no extensions of time were obtained under the provisions of 37 CFR 1.136(a), this application became abandoned by operation of law (35 USC 133) at midnight on October 30, 1999. A Notice of Abandonment was mailed February 25, 2000.

A petition to withdraw the holding of abandonment, based upon an alleged filing of a timely reply by way of facsimile transmission, was filed March 3, 2000, and was dismissed in the decision of the Group Director of March 23, 2000. The decision held that in the absence of a copy of an executed certificate of facsimile transmission which had been affixed to the alleged reply, the proffered facsimile transmission confirmation report was insufficient under 37 CFR 1.8 to warrant withdrawal of the holding of abandonment.

STATUTE AND REGULATION

35 U.S.C. § (6)(a) provides, in part, that:

> The Commissioner . . . may, subject to the approval of the Secretary of Commerce, establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent and Trademark Office.

35 U.S.C. 133 states:

> 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.

37 CFR 1.8(a) states in pertinent part that:

> (a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
>
> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to

expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

37 CFR 1.8(b),(c) state in pertinent part that:

(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.

OPINION

With respect to review of the Director' decision:

Petitioner requests reconsideration of the decision of March 23, 2000 which refused to withdraw the holding of abandonment, based upon the lack of a showing that a certificate of facsimile transmission under 37 CFR 1.8 had

been affixed to documents alleged to have been transmitted to the PTO. Petitioner points to "convincing evidence" in support of his renewed petition: (1) a copy of the sending report indicating the transmission was "OK", (2) a declaration signed by counsel and his paralegal testifying as to the meaning of the "OK" confirmation, and the experience of the aforementioned persons with respect to the "OK" confirmation, and also averring to their knowledge that the transmission was sent.

The standard for review of the Group Director's decision is consideration of whether the decision maker was arbitrary or capricious, such that the decision was tantamount to an abuse of discretion. A review of the record fails to review any abuse of discretion. Likewise, the additional showing has been considered but does not warrant any modification of the decision of March 23, 2000. Simply put, the showing of record still lacks a copy of the certificate of facsimile transmission required by 37 CFR 1.8(b)(2). As such, the alleged reply was not "received" at the PTO within the meaning of 37 CFR 1.6.

Rather, the rules of practice provide an applicant with a remedy for the very situation that has arisen here. See 37 CFR 1.8(b). Nevertheless, the rules of practice require, for applicant to obtain relief under the rule, the following *direct* evidence: (1) the production of a certificate of facsimile transmission in addition to (2) a copy of the non-received correspondence, and (3) the copy of the sending unit's report confirming the transmission. Id.

The additional showings provided with the instant petition merely amount to the usual and ordinary procedures employed by counsel and his paralegal in sending facsimile transmissions, and indicate an intent to transmit a timely reply, but do not constitute the necessary *direct* evidence to warrant relief under 37 CFR 1.8. Rather, it is petitioner's burden to supply, under the rules of practice, sufficient direct evidence to establish that the reply in question was actually transmitted to the Office within the meaning of 37 CFR 1.8, such that it can be considered to have been "received" at the PTO within the meaning of 37 CFR 1.6. See, Krahn v. Commissioner, 15 USPQ2d 1823, 1825 (D.C. E Va 1990). In the absence of a copy of the certificate under 37 CFR 1.8, the usual and ordinary procedures employed at counsel's firm do not, as such, adequately provide the direct evidence necessary to meet petitioner's burden in this instance. Id. Petitioner's failure to make, or keep a copy of, the appropriate certificate of mailing or transmission under 37 CFR 1.8 does not satisfy the requirement of the rule, and, as such, does not warrant relief under the rule. Id.

With respect to extraordinary relief:

In the alternative, petitioner requests waiver of the rules of practice, or other extraordinary relief.

Suspension of the rules under 37 CFR 1.183 may be granted in an "extraordinary situation, when justice requires". The facts presented on the record do not establish an extraordinary situation. Petitioner has not established any special circumstances or equities that would require suspension of the rules in the interests of justice. In order for grant of any petition under 37 CFR 1.183, petitioner must show (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. In re Sivertz, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985). Petitioner has not shown that either condition exists in this case.

Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). Clearly, the employment *vel non* of a certificate of mailing under 37 CFR 1.8 is a circumstance that was entirely within the control of petitioner, and the apparent lack of proceeding under the rule is a circumstance that was entirely within the control of petitioner by the exercise of reasonable, due care and diligence. Assuming that the failure to employ a certificate of mailing or keep a copy thereof was due to clerical inadvertence or error, such is not a grounds for requesting waiver of the regulations. See In re Kabushiki Kaisha Hitachi Seisakusho, 39 USPQ2d 1319, 1320 (Comm'r Pat. 1994).

A party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail"), aff'd without opinion, 95 F.3d 1166 (Fed. Cir.1996); Nitto Chemical Industry. Co., Ltd. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of

37 CFR 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 CFR 1.183); Vincent v. Mossinghoff, 230 USPQ 621 (D.D.C. 1985) (misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); *Gustafson v. Strange*, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); In re Chicago Historical Antique Automobile Museum, Inc., 197 USPQ 289 (Comm'r Pats. 1978) (since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation).

A standard principle of statutory construction is: *expressio unius est exclusion alterius* (the mention of one thing implies exclusion of another thing), namely absent legislative intent to the contrary, when a statute expressly provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n Of R.R. Passengers, 414 U.S. 453, 458 (1974); see also Botany Worsted Mills v. United States, 278 U.S. 282, 289 (1929)("when a statute limits a thing to be done in a particular mode, it includes the negative of any other mode"). Since Congress has provided in Public Law 97-247 a specific scheme for the revival of abandoned applications (*i.e.*, the specific situations under which the PTO may revive an abandoned application and the specific requirements (fee amounts and standards) applicable to each specific situation), the creation of other schemes for the revival of any abandoned application would be inconsistent with the patent statute. Thus, the Commissioner's authority to revive an abandoned application is limited to that specified in the statutory scheme set forth in 35 U.S.C. §§ 41(a)(7), 111, 133, and 151. See Morganroth v. Quigg, 885 F.2d 843, 847, 12 USPQ2d 1125, 1128 (Fed. Cir. 1989)(the Commissioner lacks the authority to revive an application abandoned by termination of court proceedings because 35 U.S.C. §§ 41(a)(7), 133, or 151 do not provide for the revival of an application abandoned in such a manner). Moreover, the PTO will not normally consider an extraordinary remedy, when, as here, the statues and rules already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982).

Here, as the statutes and regulations provide petitioner with the means for seeking acceptance of the delayed reply by way of revival under 35 USC 41(a)(7) and 37 CFR 1.137, it is not necessary to also fashion an

extraordinary remedy, even assuming such would constitute a proper exercise of the rules.

DECISION

A review of the record indicates that the Group Director did not abuse her discretion or act in an arbitrary manner in her treatment of the petition of March 3, 2000. Each issue raised by the petition was treated fully, and the Group Director provided a reasonable basis to support her findings and conclusion that petitioner is not entitled to have the holding of abandonment withdrawn.

The petition under 37 CFR 1.181(a)(3) is granted to the extent that the Group Director's decision of March 23, 2000 has been reviewed, but is denied with respect to making any change therein. The holding of abandonment is proper and will not be withdrawn. This application remains abandoned.

Likewise, as petitioner has failed to make a showing of such extraordinary circumstances that would justify an equitable remedy, the rules of practice will not be waived in this instance. The request for extraordinary relief is denied.

Nevertheless, this file will be retained in the Office of Petitions to await any forthcoming petition to revive under 37 CFR 1.137(b). The mailing address for this office is: Assistant Commissioner for Patents, BOX DAC, Washington DC 20231. Alternatively, petitioner may send the petition by facsimile transmission, with fee authorization, marked to the attention of the Office of Petitions, at (703) 308-6916. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed.

Telephone inquiries related to this decision may be directed to Petitions Examiner Brian Hearn at (703) 305-1830.

Manuel A. Antonakas

for Stephen G. Kunin
Deputy Commissioner for
Patent Examination Policy

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AUG 16 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

JOHN MOETTELI
BUGNION S.A.
10, ROUTE DE FLORISSANT
CASE POSTALE 375 *via AIR MAIL*
GENEVA , CH SWITZERLAND
1211 GENEVE 12 *par AVION*

In re Application of Zanco Application No. 09/172,830 Filed: October 15, 1998 Attorney Docket No. 2348-348	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 5, 2000, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office Action mailed July 30, 1999, 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 October 31, 1999.

This petition 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.

All requirements for the filing of a grantable petition under 37 C.F.R. §1.137(b) have been met. Therefore, this petition is **GRANTED**.

This file is being forwarded to Technology Center 3700 for review of the amendment accompanying this petition.

The required petition fee of one thousand two hundred ten dollars ($1,210.00) will be charged to Deposit Account #50-0800 as per your authorization of July 5, 2000.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Nelson B. Snyder III at (703) 305-0011.

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

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NOV 29 2004

Technology Center 2100

Paper No. 16

Mr. Volel Emile
P.O. Box 202170
Austin, TX 78720-2170

In re Application of: Maddalozzo, et al. Application No. 09/173,040 Attorney Docket No. AT9-98-132 Filed: October 15, 1998 For: METHOD OF CONTROLLING WEB BROWSER DOCUMENT IMAGE DOWNLOADS AND DISPLAYS	)))))))	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR §1.181

This is a decision on the response to the Notice of Abandonment which is being treated as a petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on November 4, 2003.

The instant application became abandoned for failure to timely respond to the Office action mailed December 3, 2002. The notice of Abandonment was mailed on October 10, 2003. A grantable petition must include a copy of the response and proof of timely filing of the response. A properly used Certificate of mail or Transmission that includes a 37 CFR 1.8(b)(3) statement or an Office generated Fax receipt that properly identifies the contents of the submission, is acceptable. No fee is required.

Petitioner has provided evidence in the petition that includes: a copy of the response (Appellant's Brief) and transmittal letter; the fee (37 CFR 1.17(c)) for filing an Appeal Brief under 37 CFR 1.192(a); and an Office generated Fax receipt identifying the response, which includes a USPTO receipt date of January 27, 2003.

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 (Appellant's Brief, copy filed November 4, 2003) and to charge the $320 fee to deposit account **09-0447** for filing the Brief. The application will then be forwarded to the examiner for prompt action on the merits.

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

11/23/04

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COMMISSIONER FOR PATENTS
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Paper No. 13

ALAN R LOUDERMILK
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OFFICE OF PETITIONS

In re Application of
Rangan, Worsley , Thaik & Edem
Application No.: 09/173,582
Filed: October 15, 1998
Attorney Docket No.: VN-169RI
For: DATA COMMUNICATION NETWORK WITH TRANSFER PORT, CASCADE PORT AND/OR FRAME SYNCHRONIZING SIGNAL

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed May 11, 1999 (certificate of mailing date May 6, 1999). The petition was only recently forwarded to the Office of Petitions. In addition, the decision will address the January 18, 2002 (certificate of mailing date December 10, 2001) submission of a supplemental declaration lacking the signature of all 4 inventors. The January 18, 2002 submission will be treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.67.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT** .

The petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a) 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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.67" and must include an oath or declaration executed by the correct inventive entity. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on October 15, 1998 without an executed oath or declaration. Accordingly, on November 6, 1998, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a surcharge for their late filing, consent of the assignee to the reissue application, and the assignee's statement establishing ownership of the patent.

In response, on May 11, 1999 (certificate of mailing date May 6, 1999), a petition for a four month extension of time and required fee, a declaration signed by 3 of 4 inventors, the surcharge, consent of the assignee to the reissue application, and the assignee's statement establishing ownership of the patent. The petition states, "To the extent necessary, the Assistant Commissioner may proceed under 37 CFR 1.47."

The last possible date to timely reply to the November 6, 1998 Notice to File Missing Parts of Application was June 6, 1999. Petitioners eventually filed an incomplete, yet executed declaration by the previously non-signing inventor, Geetha N.K. Rangan on June 28, 1999 (certificate of

mailing date June 25, 1999). The declaration on its own was submitted after the extendable deadline, and viewed on its own, is an improper reply to the November 6, 1998 Notice. However, the declaration taken together with a Rule 47 petition is a proper reply to the November 6, 1998 Notice. Therefore, pursuant to petitioners' authorization and in order to avoid abandonment, the Office will view the May 11, 1999 (certificate of mailing date May 6, 1999) correspondence as a petition under 37 CFR 1.47(a). The $130 petition fee will be charged to deposit account no. 50-0251.

As stated above, Ms. Rangan signed a supplemental declaration that was filed on June 28, 1999 (certificate of mailing date June 25, 1999). All inventors having signed a declaration, this supplemental declaration fixed the inventive entity as four inventors.

The Rule 47 petition is **dismissed as moot** because once all inventors have signed the declaration, there is no issue of a non-signing inventor.

Petitioners are advised that, as yet there is no declaration in compliance with 37 CFR 1.63 of record. As such, petitioners must file a supplemental declaration that contains Ms. Rangan's residence, mailing address and citizenship because it appears that the second supplemental declaration filed on February 21, 2001 is the same supplemental declaration as that filed on June 28, 1999 (certificate of mailing date June 25, 1999), only with the inventor's residence, post office address, and citizenship written in after she signed the first supplemental declaration.

37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or **other alteration** of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." (emphasis added). declaration. For this reason, a newly executed supplemental declaration by Ms. Rangan, listing all 4 inventors and Ms. Rangan's residence, mailing address, and citizenship is REQUIRED.

Petitioners filed a supplemental declaration on January 18, 2002 (certificate of mailing date December 10, 2001). The declaration lists only 3 of the 4 inventors. Petitioners request that the supplemental declaration be accepted without co-inventor Richard Thaik's signature. This request is properly treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a). A $130 petition fee will be charged to petitioners' deposit account for the filing of the petition under 37 CFR 1.183.

While petitioner has provided adequate evidence that Inventor Thaik cannot be located, there is another problem with the declaration. Inventor Edem is omitted. It is unclear as to whether petitioners are attempting to eliminate Inventor Edem or the absence of his information was an oversight.

If petitioners are attempting to eliminate Inventor Edem, petitioners should read MPEP 1412.04 and proceed accordingly.

If petitioners left off Inventor Edem through oversight, the following analysis applies. Absent from the record is a single supplemental oath or declaration which sets forth the names of all 4 inventors. Therefore, the declaration lacks compliance with 37 CFR 1.63(b)(2), for, as of yet, the signing inventors have not executed a declaration naming all 4 inventors. Petitioners must submit an executed substitute declaration which sets forth the names of the four joint inventors and which also includes the citizenship, residence and mailing address of each inventor. If Inventor Edem cannot be reached or refuses to sign the substitute declaration, then evidence of that fact must be submitted.

Clarification of petitioners' intent is required.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64(a) and 1.67(a) for a supplemental oath or declaration is **dismissed**.

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

By mail until 05/01/03:	Commissioner for Patents Box DAC Washington, D.C. 20231
By mail on or after 05/01/03:	Mail Stop PETITION Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
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 should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

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OFFICE OF PETITIONS

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OFFICE OF PETITIONS

In re Application of
Rangan, Worsley, Thaik & Edem
Application No.: 09/173,582
Filed: October 15, 1998
Attorney Docket No.: VN-169RI
For: DATA COMMUNICATION NETWORK WITH TRANSFER PORT, CASCADE PORT AND/OR FRAME SYNCHRONIZING SIGNAL

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.183 to waive 37 CFR 1.67, filed September 15, 2003 (certificate of mailing date September 8, 2003).

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.67" and must include an oath or declaration executed by the correct inventive entity. **Failure to respond will result in abandonment of the application.**

While petitioner has established that non-signing inventor Richard Thaik cannot be located after diligent efforts, petitioner has yet to submit an acceptable supplemental declaration.

The declaration contains noninitialed, nondated alterations to Inventor Rangan's and Inventor Edem's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).

Fortunately, the deficiencies or inaccuracies relate to signing inventors. Thus, pursuant to 37 CFR 1.67(a)(2), Inventor Rangan and Inventor Edem can correct their respective information on a supplemental declaration identifying the entire inventive entity but signed only by them.

Regarding finances, petitioner has paid two $130 petition fees. Only one petition fee is required, as the instant petition is a reconsideration petition. Pursuant to petitioner's authorization, deposit account no. 50-0251 will be the $130 petition fee submitted with the instant petition.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By 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 should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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LOUDERMILK& ASSOCIATES
P.O. BOX 3607
LOS ALTOS CA 94024-0607

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OFFICE OF PETITIONS

In re Application of :
Rangan, Worsley, Thaik & Edem :
Application No.: 09/173,582 :
Filed: October 15, 1998 : ON PETITION
Attorney Docket No.: VN-169RI :
For: DATA COMMUNICATION NETWORK WITH TRANSFER PORT, CASCADE PORT AND/OR FRAME SYNCHRONIZING SIGNAL

This is a decision on the reconsideration petition under 37 CFR 1.183 to waive 37 CFR 1.67, filed October 12, 2004. Pursuant to petitioner's authorization, deposit account no. 50-0251 will be charged $430 for a two month extension of time to timely reply to the June 10, 2004 decision on petition.

In view of the inablility to locate inventor Richard Thaik after diligent efforts, it is agreed that justice would be served by waiving the requirement for his signature on the supplemental declarations filed September 15, 2003 (certificate of mailing date September 8, 2003) and October 12, 2004.

The petition under 37 CFR 1.183 to waive 37 CFR 1.67 is **GRANTED**.

The aforementioned supplemental declarations have been accepted, on petition, and placed in the file.

This application is being forwarded to Technology Center G.A.U. 2666 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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In re Application of	:	
Rangan et al.	:	DECISION ON PETITION
Application No. 09/173,582	:	
Filed: 15 October, 1998	:	
Attorney Docket No. VN169R1	:	

This is a decision on the petition filed on 18 March, 2006, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On 15 October, 1998, the application was filed as an application for reissue of U.S. Patent No. 5,566,169.

2. On 11 May, 1999, and 28 June, 1999, a declaration in compliance with 37 CFR 1.63 and 1.175 was filed, naming Geetha N.K. Rangan, Debra J. Worsely, Richard Thaik, and Brian C. Edem as joint inventors.

3. On 18 March, 2006, a supplemental reissue declaration was filed together with the present petition, whereby petitioners

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

assert that joint inventor Thaik cannot be located to sign and return the supplemental declaration.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Richard Thaik on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Thaik on the supplemental declaration filed on 18 March, 2006.

CONCLUSION

1. The petition is granted.

2. It is noted that petitioners submitted $200.00 with the present petition. Effective 8 December, 2004, however, the fee for a petition under 37 CFR 1.183 is $400.00. As such, the balance of $200.00 will be charged to counsel's deposit account, No. 50-0251 as authorized in the petition filed on 18 March, 2006.

3. The application is being referred to Technology Center Art Unit 2661 for further processing.

4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 20

Jesus Vazquez
C/Alameda B-13
St. Urb.Sta Juanita
Bayamon, 00956
Puerto Rico

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OFFICE OF PETITIONS

In re Application of	:	
Jesus Vazquez	:	
Application No. 09/173,828	:	ON PETITION
Filed: October 16, 1998	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed May 2, 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 application became abandoned on August 3, 2001.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Technology Center 3746 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Latrice Bond

Latrice Bond
Petitions Examiner
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For Patent Examination Policy

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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Patent No. 6,730,822	:	
Issue Date: May 4, 2004	:	
Application No. 09/173,864	:	DECISION ON PETITION
Filed: October 16, 1998	:	
Attorney Docket No. 021396-000200US	:	

This is in response to the "Request for Certificate of Correction," filed October 6, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Paper No. None

MARGER JOHNSON & MCCOLLOM PC
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PORTLAND OR 97205

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SEP 13 2004

OFFICE OF PETITIONS

In re Application of :
Ron Coleman et al. :
Application No. 09/174,057 :
Filed: October 16, 1998 :
Attorney Docket No.: 807520 :
Title: A TIGHTLY COUPLED AND :
SCALABLE MEMORY AND EXECUTION :
UNIT ARCHITECTURE :

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b)[1], filed June 30, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee and drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 10, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting formal drawings or issue fees[2]. Accordingly, the above-identified application became abandoned on October 11, 2001. A Notice of Abandonment was mailed on April 9, 2002.

With the instant petition, 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 the petition fee, the issue fee, drawings, and has made the proper statement of unintentional delay.

The petition is **GRANTED**.

---

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 See MPEP §710.02(e).

BEST AVAILABLE COPY

The revocation of Power of Attorney and the Change of Correspondence Address have been entered and made of record.

After this decision is mailed, the application will be forwarded to the Office of Patent Publications for further processing into a patent.

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

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

BEST AVAILABLE COPY

PMG150C APC Correspondence Address - 09174057

Correspondence Address

Customer Number: 20575

Change Reason:

Directly Supplied

Name *: MARGER JOHNSON & MCCOLLOM PC

Street *: 1030 SW MORRISON STREET

City *: PORTLAND

State/Province: OR

Postal: 97205

Country *: US

Save | Refresh | Clear

Other Contact Information:

Phone No.:

503-222-3613

503-274-4622

Print | Cancel

Last Modification: PSHANOSKI 09/11/2004

New Customer Number Saved | pshanoski | 09/11/2004

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

STOEL RIVES LLP
900 S.W. FIFTH AVENUE
SUITE 2600
PORTLAND , OR 97204-1268

Mailed

AUG 2 3 2000

Director's Office
Group 2700

In re Application of)
Brent Lebeck, et al.)
Application No. 09/174,057)
Filed: October 16, 1998)
For: A TIGHTLY COUPLED AND SCALABLE)
MEMORY AND EXECUTION UNIT)
ARCHITECTURE)

CORRECTED DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a **corrected** decision on the supplemental request to withdraw from representation filed, August 23, 1999.

A review of the applciation file reveals that a petition was filed on August 23, 1999 signed by Michael Stolowitz, to withdraw as attorney of record. The petition was dismissed on the basis that Mr. Stolowitz had not been appointed as attorney of record. Further review reveals that a Revocation and New Power of Attorney appointing Mr. Stolowitz as an attorney of record was filed on February 8, 1999, prior to the filing of the petition to withdraw by Mr. Stolowitz, but had not been entered. Thus at the time the petition for withdrawal of atorney was filed, Mr. Stolowitz had been duly appointed as attorney of record.

Accordingly, the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

cc: Richard Rubinstein
Stellar Technologies, Ltd.
849 Almar Ave., Suite C-260
Santa Cruz, CA 95060

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.
09/174,057	10/16/98	LEBACK	

EXAMINER	
B	807520

LM21/0823

RICHARD RUBINSTEIN
STELLAR TECHNOLOGIES, LTD.
849 ALMAR AVENUE, SUITE C-260
SANTA CRUZ CA 95060

ART UNIT	PAPER NUMBER
KIM, H	10

DATE MAILED: 2782

08/23/00

Wrong address remainder 7/10/01

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

Commissioner of Patents and Trademarks

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

RICHARD RUBINSTEIN
STELLAR TECHNOLOGIES, LTD.
849 ALMAR AVE., SUITE C-260
SANTA CRUZ, CA 95060

In re Application of: Brent Leback Application No. 09/174,057 Filed: October 16, 1998 For: A TIGHTLY COUPLED AND SCALABLE MEMORY AND EXECUTION UNIT ARCHITECTURE	DECISION *SUA SPONTE* VACATING NOTICE OF ALLOWANCE AND NOTICE OF ALLOWABILITY

This is a decision, *sua sponte*, vacating the Notice of Allowance and Notice of Allowability mailed June 20, 2000 for the above-identified application.

The Notices mailed June 20, 2000 are hereby vacated because the Notices were mailed to the wrong address. A review of the application file reveals that a petition was filed on August 23, 1999 signed by Michael Stolowitz, to withdraw as attorney of record. The petition was dismissed by Decision mailed September 3, 1999, on the basis that Mr. Stolowitz had not been appointed as attorney of record. Further review of the application file revealed that a Revocation and New Power of Attorney appointing Mr. Stolowitz as an attorney of record was filed on February 8, 1999, prior to the filing of the petition to withdraw by Mr. Stolowitz, but had not been entered. Thus at the time the petition for withdrawal of attorney was filed, Mr. Stolowitz had been duly appointed as attorney of record. Therefor, the petition to withdraw as attorney of record filed by Mr. Stolowitz on August 23, 1999, should have been granted and the correspondence address changed to the above-listed address. In view of the Office's error in not changing the correspondence address as indicated in Mr. Stolowitz's petition to withdraw as attorney of record, the Notices mailed on June 20, 2000 to another address was an irregularity in mailing. The Office sincerely apologizes for any inconvenience to petitioner as a result of this inadvertent error.

The Notice of Allowance and the Notice of Allowability mailed June 20, 2000, are hereby vacated, *sua sponte*, and new Notices will be mailed to the correct correspondence address of record. The time period for response will be set to run from the mail date of the new Notices.

The application file is being forwarded to the technical staff for Technology Center 2700 for taking appropriate action.

Allen MacDonald, Director
Technology Center 2700
Communications & Information Processing

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,934,464	1999-08-10	09/174,291	1998-10-16	98690

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Peter V Vargo/	Date (YYYY-MM-DD)	2009-04-06
Name	Peter V. Vargo		
Patentee 2		Remove	
Signature	/John Vargo/	Date (YYYY-MM-DD)	2009-04-06
Name	John V. Vargo, Jr.		
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 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. 5934464
Issue Date: August 10,1999
Application No. 09174291
Filed: October 16,1998
Attorney Docket No. 98690

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

This is a decision on the electronic petition, filed April 6,2009 ,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 April 6,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & RICHARDSON PC
P O BOX 1022
MINNEAPOLIS, MN 55440-1022

COPY MAILED

FEB 2 6 2007

OFFICE OF PETITIONS

In re Application of Annie Yang et al Application No. 09/174,493 Filed: October 15, 1988 Attorney Docket No. 22128-002001/HU 1432	: DECISION GRANTING PETITION : UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed February 26, 2007, 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 24, 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1643 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the submission under 37 CFR 1.114 previously filed on December 28, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb10\174493.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

UNITED STATES 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.

MAILED

APR 27 2010

OFFICE OF PETITIONS

MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

In re Application of :
Brugger et al. :
Application No. 09/174,721 :
Patent No.: 7,004,924 : DECISION ON PETITION
Filed: October 19, 1998 : PURSUANT TO
Issued: February 28, 2006 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: T4342- :
14517US01 :
Title: METHODS, SYSTEMS, AND :
KITS FOR THE EXTRACORPOREAL :
PROCESSING OF BLOOD :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on November 3, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

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

The deficiency payment will be deducted from Deposit Account number 50-1165 in due course.

Petitions pursuant to Rule 1.28(c) do not carry a fee. As such, the $130 petition fee that was included with this petition will be refunded to Petitioner's Deposit Account in due course.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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

APR - 3 2003

Paper No. 29

In re Application of
John Musacchia, Jr.
Application No. 09/174,868
Filed: October 19, 1998
Attorney Docket No. 33057.1

: DECISION ON PETITION

This is a decision on the petition filed on March 24, 2003 by which petitioner requests that this application be accorded special status for advanced examination out of turn. The petition fee of $130.00 has been received.

The petition is granted.

The basis for the petition is the practice set forth in MPEP § 708.02(II), Infringement. A review of the petition shows that petitioner has met all of the requirements for a petition to make special based upon the grounds of actual infringement.

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the next action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each additional action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3712, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Patent Examining Groups 3710 and 3720

Gerald E. Helget
Briggs and Morgan P.A.
2400 IDS Center
80 South Eight Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Lucent Technologies Inc.
600 Mountain Avenue
P. O. Box 636
Murray Hill, NJ 07974-0636

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NOV 2 9 2004

OFFICE OF PETITIONS

In re Application of	:	
Sarvar Patel, et al.	:	
Application No. 09/175,178	:	ON PETITION
Filed: October 20, 1998	:	
Attorney Docket No. 13-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2003, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Terry Morgan 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. However, if Terry Morgan desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. While it is noted that a change of correspondence address was filed in this application on September 21, 2004, only a person who has power of attorney can make that request. In view thereof, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 2100 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Williams, Morgan & Amerson
10333 Richmond, Suite 1100
Houston, TX 77042

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6033568
Issue Date: March 7,2000
Application No. 09175512
Filed: October 20,1998
Attorney Docket No. 395-98

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

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

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

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)
6033568	2000-03-07	09175512	1998-10-20	SWR-PT002

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/John D. Pepe/	Date (YYYY-MM-DD)	2008-08-22
Name	John D. Pepe, Controller and Treasurer		
Enter Reel and Frame Number		Remove	
Reel Number	010351	Frame Number	0736
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
WASHINGTON, D.C. 20231
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Paper No. 15

Eamon J. Wall
Moser Patterson & Sheridan, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702

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MAR 1 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Paul Stephen Bedrosian	:	
Application No. 09/175,521	:	ON PETITION
Filed: October 20, 1998	:	
Attorney Docket No. BEDROSIAN 5	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 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 April 24, 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 application became abandoned on July 25, 2001.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center 2817 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Latrice Bond

Latrice Bond
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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MOORE, HANSEN & SUMMER, PLLP
225 SOUTH SIXTH STREET, SUITE 4850
MINNEAPOLIS, MN 55402-461

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APR 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Jacobson, Andrea M.	:	DECISION ON PETITION
Application No. 09/175,589	:	TO WITHDRAW
Filed: October 20, 1998	:	FROM RECORD
Attorney Docket No. 12369.5US01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 19, 2005.

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 Allen J. Oh on behalf of all attorneys of record who are associated with Customer Number 22854.

All attorneys/agents associated with Customer Number 22854 have been withdrawn. Applicant is reminded that there is no attorney of record at this time. Although a Power of Attorney was submitted on February 23, 2006, the Statement under 37 CFR 3.73(b) provided was not sufficient as it did not indicate the reel and frame number of the assignments. Further, USPTO Assignment Records do not include the complete chain of assignments.

The correspondence address of record has been changed and the new correspondence address is the first listed address indicated below.

There is an outstanding Office action mailed February 13, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: MACARTHUR INVESTMENTS, LLC
C/O ANDREA-MARIE JACOBSON
4456 PARKLAWN COURT, #306
EDINA, MN 55435

LEFEVOUR LAW GROUP, LLC
4365 LAWN AVE
SUITE 5
WESTERN SPRINGS IL 60558

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APR 25 2006
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MOORE, HANSEN & SUMMER, PLLP
225 SOUTH SIXTH STREET, SUITE 4850
MINNEAPOLIS, MN 55402-461

In re Application of	:	
Jacobson, Andrea M.	:	DECISION ON PETITION
Application No. 09/175,589	:	TO WITHDRAW
Filed: October 20, 1998	:	FROM RECORD
Attorney Docket No. 12369.5US01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 19, 2005.

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 Allen J. Oh on behalf of all attorneys of record who are associated with Customer Number 22854.

All attorneys/agents associated with Customer Number 22854 have been withdrawn. Applicant is reminded that there is no attorney of record at this time. Although a Power of Attorney was submitted on February 23, 2006, the Statement under 37 CFR 3.73(b) provided was not sufficient as it did not indicate the reel and frame number of the assignments. Further, USPTO Assignment Records do not include the complete chain of assignments.

The correspondence address of record has been changed and the new correspondence address is the first listed address indicated below.

There is an outstanding Office action mailed February 13, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: MACARTHUR INVESTMENTS, LLC
C/O ANDREA-MARIE JACOBSON
4456 PARKLAWN COURT, #306
EDINA, MN 55435

LEFEVOUR LAW GROUP, LLC
4365 LAWN AVE
SUITE 5
WESTERN SPRINGS IL 60558

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OFFICE OF PETITIONS

LEFEVOUR LAW GROUP LLC
4365 LAWN AVENUE, SUITE 5
WESTERN SPRINGS, IL 60558

In re Application of

JACOBSON, Andrea M.
Application No. 09/175,589
Filed: October 20, 1998
Attorney Docket No. 150-003US

DECISION ON PETITION
TO WITHDRAW
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 May 30, 2006.

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. 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Firm no longer represents..." does not meet any of the conditions set forth in 37 CFR 10.40.

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 Monica A. Graves at 571-272-7253.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **MacArthur Investments LLC**
c/o Andrea-Marie Jacobson
4456 Parklawn Court, #306
Edina, MN 55435

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NOV 24 2006

TECHNOLOGY CENTER 3600

MacArthur Investments, LLC
C/o Andrea-Marie Jacobson
4456 Parklawn Court, #306
Edina, MN 55435

In re application of	:	**DECISION ON PETITION**
Andrea M. Jacobson	:	**FOR SECOND SUSPENSION**
Application No. 09/175,589	:	**OF ACTION UNDER**
Filed: October 20, 1998	:	**37 CFR 1.103 (a)**
For: ELECTRONIC RECORD MANAGEMENT SYSTEM		

This letter is responsive to the petition for a second suspension of action under 37 CFR 1.103(a) received on October 17, 2006.

The petition for suspension of action under 37 CFR 1.103(a) is **DENIED**.

A grantable petition for suspension of action under 37 CFR 1.103(a) requires:

1) A showing of good and sufficient cause for suspension of action, and
2) The fee set forth in 37 CFR 1.17(g), unless such cause is the fault of the Office.

Applicant filed a request on November 22, 2005 to suspend prosecution. A decision by the examiner of record granting a 3 month suspension was mailed July 17, 2006. In the latest petition filed October 17, 2006, the applicant requests a further 3 month suspension under 37 CFR 1.103(a), in order to "permit Applicant and her current representative to accurately determine the status of the Application and develop a strategy going forward, including ascertaining the current status of the claims and to make any appropriate amendment".

The earlier issues surrounding applicant's representation have now apparently been resolved. Because an Office action has just recently been mailed on November 20, 2006, the status of the application should now be clear to the applicant, and the Shortened Statutory Period given for response to the action will afford applicant sufficient time to develop a strategy and make an appropriate amendment. In view of the above facts, the petition for a second suspension of action is **DENIED.**

Any questions surrounding this decision should be directed to Quality Assurance Specialist Steven Meyers at (571) 272-6611.

Wynn Coggins, Director
Technology Center 3600
(571) 272-5350

snm: 11/21/06
SM

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In re Patent No. 6068487
Issue Date: May 30,2000
Application No. 09175642
Filed: October 20,1998
Attorney Docket No. 08342/017001

:

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

:

This is a decision on the electronic petition, filed December 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in 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)
6,068,487	2000-05-30	09/175,642	1998-10-20	14722-0027001

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Denis G. Maloney/	Date (YYYY-MM-DD)	2008-12-04
Name	Denis G. Maloney	Registration Number	29670

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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ALEXANDRIA, VA 22313-1450
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GTC Biotherapeutics, Inc.
175 Crossing Boulevard, Suite 410
Framingham, MA 01702

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Li How Chen, et al.	:	
Application No. 09/175,683	:	ON PETITION
Filed: October 20, 1998	:	
Attorney Docket No. 10275-134001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 24 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). 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).

A "Notice of Allowability" was mailed to applicant on January 10, 2005, which set a three-month statutory period within which to submit corrected drawings. Since the drawings were timely received, the application became abandoned on April 11, 2005.

The drawings provided with the petition have been reviewed by the Draftsperson who has determined they are unacceptable. A "Notice of Draftsperson's Patent Drawing Review" is attached herewith. The application cannot be revived until acceptable drawings are received.

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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GTC Biotherapeutics, Inc.
175 Crossing Boulevard, Suite 410
Framingham, MA 01702

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Li How Chen, et al. :
Application No. 09/175,683 : ON PETITION
Filed: October 20, 1998 :
Attorney Docket No. 10275-134001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 22 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). 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).

A previous petition under 37 CFR 1.137(b) was filed June 24, 2005, which was dismissed on July 18, 2005. The decision informed applicant that the drawings submitted were not acceptable by the Draftsperson. In reply, applicant filed the present petition along with corrected drawings, which have been reviewed by the Draftsperson. The Draftsperson has again concluded that the drawings are not acceptable. A "Notice of Draftsperson's Patent Drawing Review" is attached herewith. The application cannot be revived until acceptable drawings are received.

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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions

Attachment: Notice of Draftsperson's Patent Drawing Review

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GTC BIOTHERAPEUTICS, INC,
C/O WOLF, GREENFIELD & SACKS, P.C.
FEDERAL RESERVE PLAZA
600 ATLANTIC AVE.
BOSTON MA 02210-2206

In re Application of
Chen et al.
Application No. 09/175,683
Filed: October 20, 1998
Attorney Docket No. G0744.70037US02

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 28, 2005, to revive the above-identified application, and the letter filed June 26, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed January 10, 2005, which set a statutory period of reply of three (3) months. No extensions of time are permitted. Accordingly, by operation of law, the above-identified application became abandoned on April 11, 2005.

The petition satisfies the conditions of revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $750; (3) the required statement of unintentional delay. Accordingly, corrected drawings are accepted as having been unintentionally delayed.

In view of the above decision, the letter filed June 26, 2006 regarding the holding of abandonment is **DISMISSED AS MOOT**.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272-4914, or in his absence, to the undersigned at 571-272-7099.

The application file is being referred to Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

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600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Li How Chen et al :
Application No. 09/175,683 :
Filed: October 20, 1998 :
Attorney Docket No. G0744.70037US02 :

This is a decision on the petition, filed March 20, 2007, 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 January 21, 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]

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

The examiner of Technology Center AU 1635 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
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
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

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SEP 13 2007

OFFICE OF PETITIONS

GTC BIOTHERAPEUTICS, INC.
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of	:	
Li How Chen et al	:	
Application No. 09/175,683	:	DECISION GRANTING PETITION
Filed: October 20, 1998	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. G0744.70037US02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 12, 2007, 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 20, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1635 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
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 Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Paper No.

Sheridan Ross
1560 Broadway
Suite 1200
Denver, CO 80202-5141

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OCT 1 0 2001
OFFICE OF PETITIONS

In re Application of	:	
Dennis J. Dupray	:	
Application No. 09/176,587	:	ON PETITION
Filed: October 21, 1998	:	
Attorney Docket No. 1005-DJD	:	

This is a decision on the petition, filed October 9, 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).

Petitioner is advised that the issue fee paid on May 29, 2001 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

---

[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. The request and pertinent attachments should be addressed to **Box Issue Fee**. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to 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.**

The application is being forwarded to Technology Center AU 3662 for processing of the request for continued examination under 37 CFR 1.114

Marianne E. Morgan
Petitions Examiner
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
www.USPTO.gov

Paper No.

Date : October 10, 2001

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Dennis J. Dupray
Application No. : 09/176,587
Filed : October 21, 1998

The above-identified application has been assigned Patent No. 6,304,217 and an issue date of October 16, 2001.

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 October 16, 2001:

> "All reference to Patent No. 6,304,217 to Dennis J. Dupray of Golden, Colorado for A METHOD AND SYSTEM FOR USING MULTIPLE EVALUATIONS FOR WIRELESS LOCATION AND OTHER APPLICATIONS appearing in the Official Gazette of October 16, 2001 should be deleted since no patent was granted."

Marianne E. Morgan
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 K.Davis, P/OCS, CM1-6A07

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

#36

Paper No. 36

Dennis J. Dupray
1801 Belvedere Street
Golden, CO 80401

COPY MAILED

JAN 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Dennis J. Dupray	:	
Application No. 09/176,587	:	ON PETITION
Filed: October 21, 1998	:	
Attorney Docket No. 1005-DJD	:	

This is a decision on the petition, filed September 28, 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).

Petitioner is advised that the issue fee paid on May 29, 2001 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

---

[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. The request and pertinent attachments should be addressed to **Box Issue Fee.** Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to 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.**

The application is being forwarded to Technology Center AU 3662 for processing of the request for continued examination under 37 CFR 1.114

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
09/176,587	10/21/1998	DENNIS J. DUPRAY	1005-DJD	2046

7590 06/12/2002

DENNIS J DUPRAY
1801 BELVEDERE STREET
GOLDEN, CO 80401

EXAMINER
PHAN, DAO LINDA

ART UNIT	PAPER NUMBER
3662	41

DATE MAILED: 06/12/2002

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

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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	41

DATE MAILED:

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

The petition filed April 11, 2002 under 37 CFR §1.97(d)(2)(ii) for consideration of an information disclosure statement filed after allowance has been:

[ ] GRANTED.

[X] DENIED.
The petition lacks:

[X] The required fee under 37 CFR §§1.97(d)(2)(iii) and 1.17(i)(1).

[X] 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 will not be considered by the examiner.

Thomas H. Tarcza

Thomas H. Tarcza
SPE Art Unit 3662

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 55

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OFFICE OF PETITIONS

Dennis J. Dupray
1801 Belvedere Street
Golden, CO 80401

In re Application of
Dennis J. DUPRAY
Application No. 09/176,587
Filed: October 21, 1998
Attorney Docket No. 1005-DJD

DECISION
ON PETITION
37 CFR 1.137(b)

This is a decision on the petition filed December 17, 2002, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is DISMISSED.

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 1.137(b)". Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

The instant petition lacks item (1).

The instant application became abandoned for failure to timely submit the Issue Fee required by the Notice of Allowance and Issue Fee Due mailed on July 29, 2002. In particular, petitioner failed to return the issue fee transmittal (Form PTO-85b), or an equivalent thereof, requesting reapplication of the previously paid issue fee, submitted May 29, 2001, toward payment of the issue fee required by the new Notice of Allowance and Issue Fee Due, mailed July 29, 2002. By way of submission of the form PTOL-85b with the instant petition, petitioner now requests that the issue fee submitted May 29, 2001 be applied toward the outstanding issue fee due. However, the record reflects that the issue fee submitted May 29, 2001 was paid in the amount of $620. Petitioner is advised that at the time of filing the instant petition, the issue fee due was $640. Therefore, the instant petition cannot be granted at this time because petitioner did not

provide herewith the outstanding $20 balance of the issue fee required by 37 CFR 1.18(b) or authorization to charge a deposit account therefor.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By Fax: (703) 308-6916
ATTN: Office of Petitions

Inquiries regarding this communication may be directed to the undersigned at (703) 308-3865.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 57

Dennis J. Dupray
1801 Belvedere Street
Golden, CO 80401

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OFFICE OF PETITIONS

In re Application of
Dennis J. DUPRAY
Application No. 09/176,587
Filed: October 21, 1998
Attorney Docket No. 1005-DJD

: DECISION ON PETITION
: 37 CFR 1.137(b)

This is a decision on the renewed petition, filed June 17, 2003, under 37 CFR 1.137(b), 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 balance of the issue fee due has been charged to Petitioner's deposit account no. 19-1970, as authorized in a telephone conversation with Mr. Dupray on November 10, 2003.

Petitioner is advised that the address on the instant petition differs from the address of record. As there is no indication that a change of address has been filed in this case, courtesy copy of this decision will be mailed to the address provided on the instant petition; however, a change of address should be filed in this case in accordance with MPEP 601.03.

Any inquiries concerning this decision may be directed to the undersigned at (703) 308-3865.

This application is being forwarded to the Publication Division for processing into a patent.

BethAnne C. Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Dennis J. Dupray
1700 Lincoln Street, Suite 3500
Denver, Colorado 80203

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. 23

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MAY 15 2003
OFFICE OF PETITIONS

POLSTER, LIEDER, WOODRUFF & LUCCHESI
763 SOUTH NEW BALLAS ROAD
ST. LOUIS MO 63141-8750

In re Application of
James V. Young
Application No. 09/176,866
Filed: October 22, 1998
Attorney Docket No. 6996

ON PETITION

This is a decision on the renewed petition filed April 22, 2003 under 37 CFR 1.137 (b) to revive the above-identified application.

The petition under 37 CFR 1.137 (b) 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(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 13, 2002. See MPEP 1215.04.

This application is being forwarded to Technology Center 3700 for review of the Appeal Brief filed April 22, 2003.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

PAUL F. NEILS
SUGRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20037-3213

MAIL

OCT 2 9 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Yong-yu Chi
Application No. 09/176,940
Filed: October 22, 1998
For: Head Drum Assembly for
Tape Recorder

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed March 20, 2001, requesting withdrawal of the holding of abandonment for the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Office action mailed May 30, 2000. A Notice of Abandonment was mailed March 14, 2001.

Petitioner asserts that a proper response was timely filed in the form of a request for continued prosecution application (CPA). In support of the petition, petitioner submits a copy of the CPA, a date-stamped post card receipt acknowledging receipt of the continuation application transmittal form, and check no. 153361 in the amount of $690.00 on June 16, 2000.

The originally filed response was not matched with the file and has not been located. M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as 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 correspondence was received in the PTO but not matched with the file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused to petitioner is regretted.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center support staff for entry of the CPA and the response filed June 16, 2000 but unentered. The file will then be forwarded to the Examiner for appropriate action.

James L. Dwyer, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 33

COHEN PONTANI LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

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JUN 1 9 2002

OFFICE OF PETITIONS

In re Application of
Lukas, et al.
Application No. 09/177,427
Filed: October 22, 1998
Attorney Docket No. 4804-4

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2002 (Certificate of Mailing dated April 19, 2002), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the non-final Office action, mailed May 8, 2001, which set a shortened statutory period for reply of three (3) months. On January 14, 2002, petitioner submitted an amendment together with a three month extension of time. However, the amendment was not timely because it did not include a proper Certificate of Mailing.[1] Accordingly, the above-identified application became abandoned on August 9, 2001. A Notice of Abandonment was mailed on March 27, 2002.

Petitioner has met the requirements to revive the above-identified application, pursuant to 37 CFR 1.137(b). Petitioner submitted the petition fee and made the proper statement of unintentional delay. The required reply in the form of an amendment was previously submitted on January 14, 2002.

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 $920 extension of time fee submitted on January 14, 2002 was subsequent to the maximum period obtainable for reply (November 8, 2000), this fee has been refunded to petitioner's Deposit Account 03-2412.

The application file is being forwarded to Technology Center 1600 for consideration of petitioner's amendment, filed January 14, 2002.

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

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

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[1] The Certificate of Mailing, although dated November 8, 2001 (the last day obtainable for reply), did not include a signature.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 6/18/02

2 Serial/Patent # 09/177,427

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
✓	Extension of Time	28	1/16/02	$ 920.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 920.00

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 03--2412

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

Applicant submitted an extension of time outside of the maximum period obtainable for reply

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Cliff Congo TITLE: Petitions Attorney

SIGNATURE: Cliff Congo PHONE: 305-0272

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 6/19/02

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES 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. None

VERIZON CORPORATE SERVICES GROUP INC.
C/O CHRISTIAN R. ANDERSEN
600 HIDDEN RIDGE DRIVE
MAILCODE HQEO3H14
IRVING TX 75038

COPY MAILED

DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Steven E. Gardell et al.	:	
Application No. 09/177,700	:	
Filed: October 23, 1998	:	DECISION ON PETITION
Attorney Docket No. 97-813	:	UNDER 37 C.F.R. §1.181(A)
Title: MULTI-LINE APPEARANCE	:	
TELEPHONY VIA A COMPUTER	:	
NETWORK	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on November 15, 2005.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 4, 2005, which set a shortened statutory period for reply of three (3) 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 April 5, 2005. A Notice of Abandonment was mailed September 22, 2005.

With the present petition, Petitioner has included an amendment, a one-month extension of time, and a certificate of facsimile transmission which bears a date of April 5, 2005.

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 timely response was timely submitted, pursuant to 37 C.F.R. §1.8.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

Technology Center 2600 will be notified of this decision.

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

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

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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VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON VA 22201-2909

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JUL 28 2006
OFFICE OF PETITIONS

In re Application of	:
Gardell et al.	:
Application No. 09/177,700	:
Filing Date: October 23, 1998	: Decision on Petition for
Attorney Docket No.: 97-813	: Patent Term Extension
For: MULTI-LINE APPEARANCE	:
TELEPHONY VIA A COMPUTER	:
NETWORK	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Pre-Grant Application for Patent Term Adjustment," received on March 9, 2006. 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.

Petitioner argues that the patent should get a patent term extension beginning on October 7, 2002, the date that the Notice of Appeal was filed and ending on November 30, 2004, the date of the decision in favor of applicants.

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

A Notice of Appeal was filed in the above-identified application on October 7, 2002. On November 30, 2004, the Board of Patent Appeals and Interferences (BPAI) remanded the application to the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a remand by a panel of the BPAI to the

Examiner, the patent to issue from the application is entitled to an extension of the patent term. [1] The period of delay in the above-identified application is the period beginning on October 7, 2002, the date that the Notice of Appeal was filed and ending on November 30, 2004, the date of the remand by a panel of the BPAI, which is a final decision in favor of the applicant. Three years after the earliest effective filing date of the application is October 23, 2001. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the first period of extension is **786-days**, the period from October 7, 2002 to November 30, 2004, including the beginning and end dates.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by **786 days**

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). The Petition fee $200 for the petition under 37 CFR 1.705(b) is not required for this petition under 37 CFR 1.181 and the fee has been refunded to petitioner's Deposit Account (07-2347).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOEL R PETROW
SMITH & NEPHEW NORTH AMERICA
1450 BROOKS ROAD
MEMPHIS TN 38116

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JAN 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Burnett et al.	:	
Application No. 09/177,837	:	ON PETITION
Filed: October 23, 1998	:	
Attorney Docket No. 00167-318001 / 02-31-0258	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 12, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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 request to change the address of record should be filed. 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.

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

Cc: FRANK R. OCCHIUTI
FISH AND RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

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

Mailed: JUN - 8 2004

Paper No.: #24

In re : Yoshihisa Sechi et al.
U.S. Patent No. 6,265,334
Issued: July 24, 2001
Application Number: 09/177,977
Filed: October 22, 1998
For: Ceramic Sintered Product and Process for Producing the Same

DECISION ON PETITION

This is a decision on the petition filed on December 19, 2000 to correct inventorship in a patent under 37 CFR 1.324. On December 19, 2000, the petitioner filed a REQUEST to correct the inventorship under 37 CFR 1.48(a) requesting that Yutaka Hayashi be added as an inventor. However, that REQUEST was not acted upon before the pending application became a patent. Thus, as set forth in MPEP 1481, that petition is being treated herein as a petition under 37 CFR 1.324.

Decision

Applicants are deemed to have fulfilled the requirements under 37 CFR 1.324 in that the petition is accompanied by: (1) Statements from the currently named inventors, including the inventors whose names are being added, agreeing to the change of inventorship and that the error in inventorship occurred without deceptive intent; (2) A statement from the assignee of the parties submitting statements under (1) above agreeing to the change of inventorship in the patent in compliance with 37 CFR 3.73(b); and (3) the fee set forth in 37 CFR 1.20(b).

The petition is **GRANTED**.

The file is being forwarded to Certificate of Corrections Branch for Issuance of a certificate adding Yutaka Hayashi as an inventor.

Mark Bell, SPE, Art Unit 1755
Technology Center 1700
Chemical and Materials Engineering

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,265,334 Patented: July 24, 2001

On petition requesting issuance of a certificate for correction of inventorship pursuant to 37 CFR 1.324, it has been found that the above identified patent, through error and without deceptive intent is hereby serified that the correct inventorship of this patent is:

Yoshihisa Sechi

Mashiro Sato

Hiroshi Aida

Shoji Kohsaka

Yutaka Hayashi

Mark Bell
Supervisory Patent Examiner
Art Unit 1755
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

In re Patent No. 6150951
Issue Date: November 21,2000
Application No. 09178311
Filed: October 23,1998
Attorney Docket No. 975.0074USU

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

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6150951	2000-11-21	09178311	1998-10-23	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael E Marion/	Date (YYYY-MM-DD)	2009-05-18
Name	Michael E. Marion	Registration Number	32266

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 36

Philip M. Weiss
Weiss & Weiss
310 Old Country Road, Suite 201
Garden, NY 11530

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FEB 1 3 2004

OFFICE OF PETITIONS

In re Application of	:	
M. Nowak	:	
Application No.09/178,329	:	ON PETITION
Filed: October 23, 1998	:	
Attorney Docket No. P/73-2	:	

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

The petition is granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 16, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on September 17, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475 extension of time submitted with the petition on February 2, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded in due course.

The application file is being forwarded to Technology Center AU 1773 for processing the Request for Continued Examination pursuant to 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
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 OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/23/08

Patent No. :6388056
Inventor(s) : Sundstrom et al.
Issued : 5/14/2002
Title : INHIBITION OF TRANSGLUTAMINASE-MEDIATED MICROBIAL INTERACTION WITH A MAMMALIAN HOST
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that col. 1, line 6 and col. 1, line 7 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

MCKENNA & CUNEO, L.L.P.
1900 K STREET, NW
WASHINGTON, DC 20006

HR/CBN

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

Paper No. 10

Song K. Jung
Long Aldridge & Norman
701 Pennsylvania Avenue, N.W.
Sixth Floor
Washington, D.C. 20004

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DEC 0 6 2000

OFFICE OF PETITIONS
A/C PATENTS

In re Patent No. 6,020,942 :
Issue Date: February 1, 2000 :
Application No. 09/178,711 : ON PETITION
Filed: October 26, 1998 :
Attorney Docket No. 8733-069-00 :

This is a decision on the petition filed November 20, 2000, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is Granted.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to Latrice Bond at (703) 308-6911.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Charmaine Jackson, Crystal Park 3-920 (FAX 305-8755)
Mary Louise McAskill, Crystal Park 3-920 (FAX 305-8755)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5986278
Issue Date: November 16,1999
Application No. 09179078
Filed: October 26,1998
Attorney Docket No. QIC001.D

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

This is a decision on the electronic petition, filed April 22,2009 ,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 April 22,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
5986278	1999-11-16	09179078	1998-10-26	QIC001.D

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/William N. Hulsey III, Reg. No. 33402/	Date (YYYY-MM-DD)	2009-04-22
Name	William N. Hulsey III	Registration Number	33402

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

Paper No. 25

MAIL

MAY 13 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK NY 10022

In re Application of :
Hideki Watanabe :
Application No. 09/179,156 : DECISION ON PETITION
Filed: October 26, 1998 :
For: RADIO RECEIVER AND SIGNAL :
AMPLIFYING METHOD IN RADIO RECEIVER :

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR § 1.181(a) filed March 1, 2004. No fee is required.

A Notice of Abandonment was mailed February 13, 2004 for failure to timely submit a response to the Final Office Action mailed June 4, 2003.

Petitioner alleges non-receipt of the Final Office Action mailed June 4, 2003. In support of the petition, petitioner submits copies of the docket records where the action would have been docketed had it been received and a statement from the petitioner attesting to the fact that a personal search of the file jacket and docket records indicates that the office communication was not received.

A review of the file finds that the U.S. Postal Service returned the original Final Office Action mailed June 4, 2003 as undeliverable on June 16, 2003. However, there was no finding of irregularity in the correspondence address. The Patent and Trademark Office regrets any inconvenience to Petitioner.

The petition is **GRANTED.**

The Notice of Abandonment mailed February 13, 2004 is hereby vacated and the holding of Abandonment withdrawn. The Final Office Action mailed June 4, 2003 is also vacated.

The application file is being returned to the Examiner for update of the Office Action or other appropriate action.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 27

WARD & OLIVO
708 THIRD AVENUE
NEW YORK, NY 10017

COPY MAILED

JUL 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Bates et al.	:	
Application No. 09/179,332	:	ON PETITION
Filed: October 27, 1998	:	
Attorney Docket No. CCCUSA3.0-00	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 14, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed August 16, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on November 17, 2002. A Notice of Abandonment was mailed on May 6, 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 $475.00 extension of time fee submitted with the petition on June 14, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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)
6778848	2004-08-17	09179357	1998-10-14	

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	/Laurence A. Greenberg/	Date (YYYY-MM-DD)	2009-04-16
Name	Laurence A. Greenberg	Registration Number	29308

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6778848
Issue Date: August 17,2004
Application No. 09179357
Filed: October 14,1998
Attorney Docket No. GR97P3774

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

This is a decision on the electronic petition, filed April 16,2009 ,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 April 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

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

Michael F. Brown
Brown, Pinnisi and Michaels, P.C.
400 M & T Bank Building
118 North Tioga Street
Ithaca NY 14850-4343

COPY MAILED
FEB 16 2010

In re Patent No. 6,221,699	:	
Issue Date: April 24, 2001	:	
Application No. 09/179,399	:	NOTICE
Filed: October 27, 1998	:	
Attorney Docket No. 037188-52927	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 30, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Paper No. 25

MAIL

DEC 03 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of
Ki-young KIM, et al.
Application No. 09/179,405
Filed: October 27, 1998
For: TELEPHONE NUMBER SEARCHING SYSTEM SUPPORTING AUTOMATIC TELEPHONE CONNECTION AND METHOD THEREFOR

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment, filed October 6, 2003, requesting the holding of abandonment be withdrawn in the above-identified application.

This application was held abandoned for failure to the Board of Appeals decision of May 30, 2003. A Notice of Abandonment was mailed September 15, 2003.

Petitioner states that a Request for Continued Examination (RCE) was in fact timely filed. To support this assertion, petitioner has submitted a date-stamped copy of a return postcard which acknowledges receipt by the Patent and Trademark Office of an RCE and amendment on July 30, 2003. Petitioner has also submitted a copy of the RCE and amendment.

The original RCE and amendment have recently been located and entered into the application file. Any inconvenience caused petitioner is regretted. The $750.00 fee has been credited to the instant application.

The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for crediting applicant's deposit account No. 19-3935 $130.00 as this type of petition does not require a fee. From there, the application will be forwarded to the examiner for appropriate action in due course.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 23

MAIL

OCT 04 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JAY H MAIOLI
COOPER AND DUNHAM
1185 AVENUE FO THE AMERICAS
NEW YORK, NY 10036

In re Application of Naoto Iwahashi, et al. Application No. 09/179,549 Filed: October 28, 1998 For: FEATURE EXTRACTION APPARATUS AND METHOD AND PATTERN RECOGNITION APPARATUS AND METHOD	DECISION ON PETITION TO WITHDRAW FINALITY OF OFFICE ACTION

This is a decision on the petition under 37 CFR § 1.181, filed May 28, 2002, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed April 23, 2002.

The petition is granted to the extent that the Office action will be reviewed but **DENIED** as to making any change thereto.

BACKGROUND

A final Office action was mailed September 13, 2001 rejecting all pending claims on various grounds. In response thereto, applicant filed a Request for Continued Examination under 37 CFR 1.114 along with an amendment cancelling claims 1-7 and amending claims 8, 24, 41 and 48. Subsequently, the examiner issued a first Office action which was indicated as being a final office action on April 23, 2002.

REGULATIONS AND PRACTICE

37 CFR § 1.113(a) states in part that:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's or patent owner's reply is limited to appeal in the case of rejection of any claim (§

1.191) or to amendment as specified in § 1.116. ...

MPEP § 706.07(b) states in part that:

(b) The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application...and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. ...

OPINION

Petitioner contends that the finality of the first Office action of April 23, 2002 is improper because "...claims 8 and 41 were amended to recite that the means for calculating a feature distribution parameter was 'for a frame of the unclassified input data varying with time' and including 'at leat one' of an average vector and a variance vector." Claims 24 and 48 were similarly amended. Petitioner further argues that these "claims are not drawn to the same invention by reason of the amendments made to claims 8, 24, 41, and 48. It is axiomatic that the claims define the invention. Because the claims now in the application contain elements not previously recited, the invention of this application is now different from the invention as it was following the Amendment of August 13, 2001. ..."

This is not persuasive. The amendments to the claims change the scope of the invention to such a small degree that the examiner's rejection of the pending claims in the final rejection of April 23, 2002 is virtually the same as the rejection of the final Office action of September 13, 2001. The amendment of March 25, 2002 did not result in a change of invention. Since all the claims of the new application are drawn to the same invention and the examiner properly could have made the previous action final with the same rejection if the amendment had been earlier presented, the finality of the Office action of April 23, 2002 is proper.

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the Office action of April 23, 2002 is **DENIED**.

The three month shortened statutory period for response set forth in the final Office action of April 23, 2002 continues to run. The application file is being forwarded to the Technology Center's file storage area to await response by applicant.

James L. Dwyer, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ZAFMAN
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGLES, CA 90025

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of

Poisner, et al.

Application No: 09/180,056

Filed: November 3, 1998

Attorney Docket No. 042390.P6344

DECISION ON PETITION

This is a decision on the petition titled, "Petition to Correct Filing Date", filed May 3, 2006, which will be treated as a petition under 37 CFR 1.53(e). This is also a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 22, 2003.

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

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

TREATMENT UNDER 37 CFR 1.181

A review of the application file reveals that the application was filed on November 3, 1998, without a properly executed declaration under 37 CFR 1.63. A Notice to File Missing Parts of Nonprovisional Application was mailed on November 19, 1998, requiring a properly executed declaration and surcharge. The record does not reveal that a timely and proper response was filed to the Notice of Missing Parts. The application was abandoned, by operation of law, on January 20, 1999. A Notice of Abandonment was not mailed until October 28, 2003. On December 1, 2004, a "Withdrawal of Previously Sent Notice" was sent withdrawing the Notice of Abandonment. There is no indication that the Notice to File Missing Parts was withdrawn, however. The application was, therefore, abandoned on January 20, 1999, notwithstanding the withdrawal of the Notice of Abandonment.

The instant petition to withdraw the holding of abandonment was filed on December 22, 2003. Petitioner maintains that the Notice to File Missing Parts of Nonprovisional Application was never received.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not

received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The petition is granted. The holding of abandonment is, therefore, withdrawn.

TREATMENT UNDER 37 CFR 1.53

The record reveals that the filing date for the application was originally November 3, 1998. On filing, the application papers met every requirement of 37 CFR 1.53 necessary to be accorded a filing date. Although the application did not have a executed declaration, it is noted that a declaration is not required to obtain a filing date and the filing of the same at a later point in the prosecution would not result in a change to the filing date.

The record reflects that when the petition to withdraw the holding of abandonment was filed on December 22, 2003, the Office of Initial Patent Examination changed the filing date for the application to December 22, 2003—the date the petition was filed. There is nothing in the record to support the change in the filing date to December 22, 2003. Accordingly, the petition under 37 CFR 1.53 to correct the application filing date is granted. The filing date for the application is November 3, 1998.

The application file is being forwarded to the Office of Initial Patent Examination for restoration of the original filing date of November 3, 1998, and issuance of a corrected filing receipt. Thereafter, the application file will be directed to the Office of Patent Publications for processing into a patent.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-30-06

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction on Patent No.: 6861415

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.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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:

SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER

SPE — 1617 **Art Unit**

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,861,415 B2

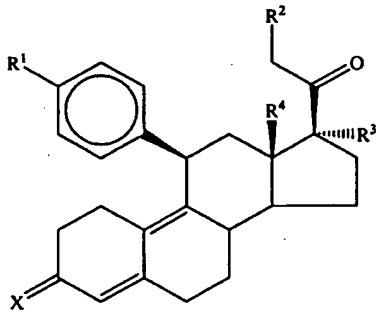
APPLICATION NO.: 09/180,132

ISSUE DATE : March 1, 2005

INVENTOR(S) : Hyun K. Kim et al.

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

Cover page, under the Abstract, please correct the formula to read:

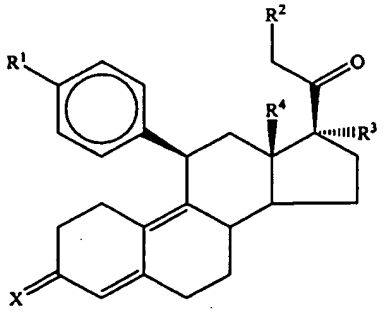


I

Fig. 1A, between formulas 1 and 2, please replace "Me_3SiC" with -- Me_3SiCl --.

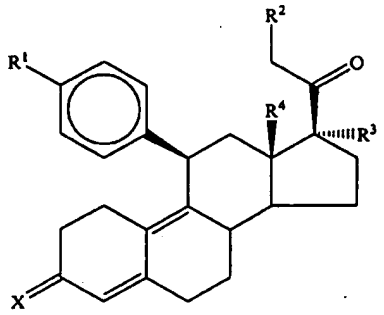
Fig. 1A, between formulas 2 and 3, please replace "$CF_3)_2CO$" with -- $(CF_3)_2CO$ --.

Column 2, under Summary of the Invention, please correct the formula to read:



I

Column 3, under Detailed Description of the Invention and Preferred Embodiments, please correct the formula to read:



I

MAILING ADDRESS OF SENDER (Please do not use customer number below):

TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

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)
6297470	2001-10-02	09180226	1998-11-03	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Werner H. Stemer/	Date (YYYY-MM-DD)	2009-11-18
Name	Werner H. Stemer	Registration Number	34956

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6297470
Issue Date: October 2,2001
Application No. 09180226
Filed: November 3,1998
Attorney Docket No. Q-52170

:

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

:

This is a decision on the electronic petition, filed November 18,2009 ,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 18,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

KENNETH A GANDY
WOODARD EMHARDT NAUGHTON
MORIARTY & MCNETT
BANK ONE CTR TOWER
111 MONUMENT CIRCLE SUITE 3700
INDIANAPOLIS, IN 46204

COPY MAILED

APR 0 1 2002

OFFICE OF PETITIONS

In re Application of
Ho, et al.
Application No. 09/180,340
Filed: August 20, 1999
Attorney Docket No. 7024109PUR48

DECISION ON PETITION

This is a decision on the petition filed on January 18, 2002, under 37 C.F.R. §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 non-final Office action mailed April 12, 2000. This action set a shortened statutory period for reply of three (3) months. No extensions of time were filed. Accordingly, the above-identified application became abandoned on July 13, 2000. A Notice of Abandonment was mailed on January 19, 2001.

Petitioner contends that abandonment of the above-identified application was improper because the reply, an amendment, with a one-month extension of time were timely filed on Monday, August 14, 2000. In evidence, petitioner supplied copies of both the amendment and their return receipt postcard. The amendment bears a certificate of mailing dated August 14, 2000. The postcard reflects receipt of the amendment and request for extension of time in the Office of Initial Patent Examination (OIPE) on August 16, 2000.

Nonetheless, petitioner acknowledges that their argument for withdrawing the holding of abandonment was not timely raised pursuant to §1.181(f). The petition is not accompanied by a terminal disclaimer. See MPEP 711.03(C)I. Accordingly, petitioner, alternatively, explains the delay in filing a petition and requests that the application be revived under §1.137(b) as having been unintentionally abandoned.

Having considered the evidence, it is concluded that petitioner has met the requirements to revive the above-identified application, pursuant to 37 C.F.R. §1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the required statement of unintentional delay.

The application file is being forwarded to Technology Center 1653 for consideration of the amendment filed January 18, 2002 (and the Information Disclosure Statement filed August 16, 2000).

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

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES 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. 29

WILLIAM E. MCSHANE
CONNOLLY BOVE LODGE & HUTZ LLP
1220 MARKET STREET
P.O. BOX 2207
WILMINGTON, DE 19899

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JUN 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Xavier Marze :
Application No. 09/180,477 :
Filed: February 5, 1999 :
Attorney Docket No. 022650-498 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 28, 2004 (USPTO Post Card receipt May 6, 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 February 28, 2001, which set a shortened statutory period for reply of three (3) months. Three months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 29, 2001.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 1616 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

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Paper No. 13

WENDEROTH LIND & PONACK
2033 K STREET NW SUITE 800
WASHINGTON, DC 20006

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Takahiro Oshita et al.
Application No. 09/180,601
Filed: November 10, 1998
Attorney Docket No. 01213/GEB667-US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2001, to revive the above-identified application.

The petition is **GRANTED**.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 29, 2000, which set a shortened statutory period for reply of three (3) months. Three (3) months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 30, 2001.

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

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

The application file is being forwarded to Technology Center 1700.

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

6 OCT 2000

Rick Bauer
FITZPATRICK CELLA HARPER & SCINTO
1900 K Street, NW
Washington, D.C. 20006-1010

In re Application of	:	
FENSTER, et al.	:	
U.S. Application No. 09/180,629	:	DECISION ON PETITION
PCT No.: PCT/CA98/00247	:	UNDER 37 CFR 1.47(a)
Int. Filing Date: 20 March 1998	:	
Priority Date: 21 March 1997	:	
Atty. Docket No.: 1814.31	:	
For: THREE-DIMENSIONAL IMAGING SYSTEM	:	

This is a decision on applicants' "REQUEST FOR RECONSIDERATION" filed via facsimile on 10 September 1999, which is being treated as a renewed petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor, Mr. Shane Dunne. In a decision dated 09 December 1999, the "PETITION UNDER 37 CFR 1.47(a))" filed 12 November 1999 was dismissed because applicant did not provide adequate proof that the missing inventor, Shane Dunne, refused to execute the application or could not be reached after diligent effort.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. The 09 December 1999 decision indicated that petitioner has satisfied items (1), (3) and (4) above.

With regards to Item (2), the application and papers have been reviewed and have been found to be in compliance with 37 CFR 1.47(a). The steps taken by Mr. Bauer are sufficient to establish that the missing inventor, Mr. Shane Dunne, is unavailable to sign the declaration.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **GRANTED**.

The application will be given an international filing date of 20 March 1998 under 35 U.S.C. 363, and a date of **12 November 1999** under 35 U.S.C. 371(c) and 102(e).

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459

06 OCT 2000

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

Mr. Shane Dunne
Suite 401
587 Talbot Street
London, Ontario, Canada N6A 2T2

In re Application of
FENSTER, et al.
U.S. Application No. 09/180,629
PCT No.: PCT/CA98/00247
Int. Filing Date: 20 March 1998
Priority Date: 21 March 1997
Atty. Docket No.: 1814.31
For: THREE-DIMENSIONAL IMAGING SYSTEM

Dear Mr. Dunne:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.497.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office

FITZPATRICK CELLA HARPER & SCINTO
1900 K Street, NW
Washington, D.C. 20006-1010

3 1 MAR 2003

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WASHINGTON, D.C. 20231
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J. Georg Seka
Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

In re Application of	:	
BOTHE, et al.	:	DECISION ON
Application No.: 09/180,699	:	
PCT No.: PCT/EP97/00689	:	PETITION UNDER
Int. Filing Date: 13 February 1997	:	
Priority Date: 15 May 1996	:	37 CFR 1.181, 37 CFR 1.137(a)
Attorney Docket No.: 81992	:	
For: PROTECTIVE DEVICE FOR AN	:	AND 37 CFR 1.137(b)
ELECTRONIC CIRCUIT	:	

This decision is in response to applicant's "(A) Petition to Withdraw Holding of Abandonment, (B) Alternative Petition Under 37 CFR 1.137(a) For Revival Unavoidably Abandoned Application, And, Further (C) Alternative Petition Under 37 CFR 1.137(b) For Revival of Unintentionally Abandoned Application" filed on 07 January 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 13 February 1997, applicant filed international application PCT/EP97/00689, which claimed priority of an earlier application filed 15 May 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 20 November 1997. A Demand for international preliminary examination, in which the United States was elected, was filed on 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 15 November 1998.

On 13 November 1998, 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); a translation of the international application into English; a First Preliminary Amendment and an unsigned combined declaration and power of attorney.

On 29 March 1999, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905); NOTIFICATION OF DEFECTIVE declaration (Form PCT/DO/EO/917) and NOTICE OF DEFECTIVE TRANSLATION (Form PCT/DO/EO/913) informing applicant of the need to provide a signed 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 a translation

of the International Application into English. Applicant was provided two months to file the proper response and advised that this time could be extended pursuant to 37 CFR 1.136(a). In addition, applicant was advised of the need to provide payment of the $130.00 processing fee for providing an English translation of the International Application later than thirty months from the priority date and the $130.00 surcharge for providing an oath or declaration of the inventors later than thirty months from the priority date.

15 February 2000, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 29 March 1999 within the time period set therein and that above-identified application was abandoned as to the United States.

On 07 November 2001, applicant filed a status inquiry as to the present application.

On 21 November 2001, applicant was mailed a communication informing applicant that the present application was abandoned as to the United States and forwarding applicant copies of the PCT/DO/EO forms previously mailed 29 March 1999 and 15 February 2000 respectively.

On 07 January 2002, applicant responded with the present petitions accompanied by an executed combined declaration and power of attorney; a copies of various return postcards; a corrected English translation of the international application and an English translation of "Amended Claims" 1-9 of the international application.

DISCUSSION

A. Petition Under 37 CFR 1.181

A review of the "Transmittal Letter to The United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 filed 13 November 1998, instructs the DO/EO/US to send all correspondence to:

J. Georg Seka
Townsend and Townsend and Crew LLP
San Francisco, CA 94111

the transmittal letter is executed by counsel of the same name. Thus, it is clear that the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905); NOTIFICATION OF DEFECTIVE DECLARATION (Form PCT/DO/EO/917) and NOTICE OF DEFECTIVE TRANSLATION (Form PCT/DO/EO/913) mailed 29 March 1999 was properly mailed to the designated correspondence address.

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on

the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971). Applicant's present filing satisfies items (1), (3) and (4).

As to item (2), while applicant has provided a declaration of Michele A. Simone indicating that she examined the back-up copies of the first pages of the Office Actions kept by her and did not find any Notification of Missing Requirements for the present case, this is not sufficient. Applicant must attests that a search of the file jacket indicates that the Office action was not received.

For the reason indicated above, it is not proper to grant applicant's petition at this time.

In light of the above, applicant's petition under 37 CFR 1.181 is dismissed.

B. Petition Under 37 CFR 1.137(a)

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be filed promptly after applicant becomes aware of the abandonment, and such petition must be accompanied by: (1) A proper response, unless already filed; (2) The petition fee as set forth in §1.17(l); (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) A terminal disclaimer (if necessary).

With regard to Item (1), the proper response was the filing of a properly executed oath of declaration of the inventors, a compliant translation of the international application into English, as well as, payment of the fees detailed in the Form PCT/DO/EO/905. Applicant has presently filed a proper response.

As to Item (2), applicant has authorized the deduction of the $110.00 petition fee from Deposit Account No. 20-1430.

With regard to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

As to Item (3), applicant has not provided sufficient evidence to show that the failure to to respond to the Form PCT/DO/EO/US/905 in a timely manner was the result of a unavoidable delay. Applicant merely states that the delay was unavoidably caused by non-receipt of the form mailed 29 March 1999. However, as discussed above, applicant has not shown that the decision

was in fact not received.

Applicant's petition under 37 CFR 1.137(a) is dismissed.

C. Petition Under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (1),the proper response was the filing of a properly executed oath of declaration of the inventors, a compliant translation of the international application into English, as well as, payment of the fees detailed in the Form PCT/DO/EO/905. As discussed above, applicant has presently filed a proper response.

As to Item (2), applicant has authorized the deduction of the $1240.00 petition fee from Deposit Account No. 20-1430.

With regard to Item (3), applicant's statement that, "the entire delay in filing the required reply from the due date for filing the reply until the filing of this petition was unintentional." satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate. Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

04/10/2003 SNAJARRD 00000013 201430 09180699

01 FC:1453 1300.00 CH

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **DISMISSED**.

Applicant's petition under 37 CFR 1.137(a) is **DISMISSED**.

Applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

As authorized, $1610.00 will be deducted from Deposit Account No. 20-1430 ($110.00 as payment of the petition fee for a petition under 37 CFR 1.137(a); $1240.00 as payment of the

petition fee for a petition under 37 CFR 1.137(b); $130.00 as payment of the surcharge for filing an executed oath or declaration of the inventors later than thirty months from the priority date and $130.00 as payment of the processing fee for providing an English translation of the international application later than thirty months from the priority date.)

In addition, it is noted that a review of the fee history shows for the present application shows that the $930.00 payment of the U.S. Basic National Fee was never charged to Deposit Account 20-1430 as authorized, as such, that fee will be presently charged.

This application will be given an international application filing date of **13 February 1997** and a date of **07 January 2002** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.

Leonard Smith
Legal Examiner
Office of PCT Legal Administration

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459

REPLACED BY ART 34 AMDT

WHAT IS CLAIMED IS:

1. Apparatus for protecting electric circuitry and/or an electric consumer against damage from excessive electric energy comprising an element (8) incorporated in a current supply path for preventing an externally supplied excess voltage from generating an excessive flow of energy over a pre-established time interval, and means responsive to heat generated by the flow of excessive energy for permanently interrupting the current supply path.

2. Apparatus according to claim 1 including a circuit board forming an electric current path and a pair of solder surfaces at at least one point along the path, a first one of the solder surfaces being connectable with a power supply, and a second one of the solder surfaces being connectable with a current user, the protective element electrically connecting the two solder surfaces of the pair.

3. Apparatus according to claim 1 or 2 including a mechanically prestressed spring engaging the element (8) and reliably separating it from the solder surface pairs (6, 6'; 7, 7') when the solder becomes sufficiently heated.

4. Apparatus according to claim 3 wherein the spring comprises a leaf spring (11) which has at least one shoulder extending through a slot (13) in the circuit plate (1) and pressing against the element (8).

5. Apparatus according to claim 4 wherein one end of the leaf spring (11) extends through an edge cutout (14) in the circuit plate and has a lateral protrusion engaging the circuit plate (1), and wherein another end of the leaf spring forms a locking hook (16) extending through an opening (17) in the circuit plate (1).

6. Apparatus according to one of claims 1 to 5, wherein the current paths include solder surfaces (4, 4'; 5,

5') for connection to conductors supplying electric power and solder surfaces (6, 6'; 7, 7') for the element arranged side by side and beneath connection points (9, 10) of the element.

7. Apparatus according to one of claims 1 to 6 including a solder for attaching the element (8), the solder having a predetermined melting point chosen as a function of a predetermined, permissible maximum temperature.

8. Apparatus according to one or more of claims 1 to 7 wherein the element (8) comprises a suppressor diode which sets a predetermined voltage value.

9. Apparatus according to one or more of claims 1 to 8 wherein the current consumer comprises a storage battery.

10. Apparatus according to claim 9 including a housing, and wherein the element and the storage battery are arranged in the housing.

11. Apparatus according to one of claims 9 and 10 wherein the storage battery comprises at least one Li-Ion-cell.

Geänderte Patentansprüche

1. Vorrichtung zum Schutz einer elektronischen Schaltung und/oder eines nachgeschalteten Verbrauchers gegen Zuführung unzulässig hoher elektrischer Energie, bestehend aus einem die Spannung begrenzenden Bauelement, dessen Anschlußteile über Lötflächen mit den beiden Strompfaden des Verbrauchers verbunden sind und das durch eine Feder unter mechanischer Vorspannung gehalten und im Falle des Auslötens von der Lötfläche abgehoben und von den Strompfaden getrennt wird, dadurch gekennzeichnet, daß auf einer Leitplatte (1) für zwei Strompfade je eine Leiterbahn (2,2' bzw. 3,3') vorgesehen ist, die durch Lötflächenpärchen (6,6' bzw. 7,7') unterbrochen sind, von denen jeweils die eine Lötfläche an die Stromquelle und die andere an den Verbraucher angeschlossen ist und daß die Anschlußteile (9,10) des Bauelements (8) mit den Lötflächenpärchen (6,6' bzw. 7,7') verlötet sind.

2. Vorrichtung nach Anspruche 1, dadurch gekennzeichnet, daß die Leiterbahnen (2,2' bzw. 3,3') mit Lötflächen (4,4';5,5') für die Anschlüsse der Strompfade versehen sind und die Lötflächen (6,6';7,7') für das Bauelement (8) nebeneinander unter den Anschlußteilen (9,10) des Bauelementes (8) liegen.

3. Vorrichtung nach einem der Ansprüche 1 bis 6, dadurch gekennzeichnet, daß zum Löten des Bauelementes (8) ein Lot mit definiertem Schmelzpunkt in Abhängigkeit von der festgelegten zulässigen Aufheiztemperatur gewählt wird.

GEÄNDERTES BLATT

4. Vorrichtung nach einem der Ansprüche 1 bis 3, gekennzeichnet durch eine Blattfeder (11) , die mit wenigstens einer durch einen Schlitz (13) in die Leiterplatte (1) ragenden Schulter (12) gegen das Bauelement (8) drückt.

5. Vorrichtung nach einem der Ansprüche 1 bis 4, dadurch gekennzeichnet, daß die Blattfeder (11) an einem Ende in einem Randausschnitt (14) und mit seitlichen Schenkeln auf der Leiterplatte (1) liegt und daß am anderen Ende eine in eine Öffnung (17) der Leiterplatte (1) eingreifende Hakensperre (16) vorgesehen ist.

6. Vorrichtung nach einem der Ansprüche 1 bis 5, dadurch gekennzeichnet, daß das Bauelement (8) eine Suppressor-Diode ist, die den definierten Spannungswert festlegt.

7. Vorrichtung nach einem der Ansprüche 1 bis 6, dadurch gekennzeichnet, daß der Verbraucher ein Akkumulator ist.

8. Vorrichtung nach Anspruch 7, dadurch gekennzeichnet, daß das Schutzelement zusammen mit dem Akkumulator in einem Gehäuse untergebracht ist.

9. Vorrichtung nach Anspruch 7 oder 8, dadurch gekennzeichnet, daß der Akkumulator aus wenigstens einer Li-Ion-Zelle besteht.

GEÄNDERTES BLATT

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/12/2004

TO SPE OF : ART UNIT 2900 (2914)

SUBJECT : Request for Certificate of Correction on Patent No.: D496,762

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-922
Palm location **7580** - Tel. No. 305-8309

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

Ernest C. White, LIE305-8339
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:

_____

_____

_____

_____

_____

Gary D. Walton — **SPE**

2915 — **Art Unit**

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : D 496,762

DATED : September 28, 2004

INVENTOR(S) : Jacques DUROCHER et al.

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

The description at the end must read as follows:

The broken lines shown in Figures 1-6 are for illustrative purposes only and form no part of the design.

MAILING ADDRESS OF SENDER:

Marc Gagnon, Reg. No. 51,273, SMART & BIGGAR
1000 de la Gauchetière Street West, suite 3300, Montreal,
Québec, H3B 4W5, CANADA

PATENT NO. D 496,762

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which 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 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED

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OFFICE OF PETITIONS

HENRY M FEIEREISEN, LLC
HENRY M FEIEREISEN
708 THIRD AVENUE
SUITE 1501
NEW YORK NY 10017

In re Application of	:	
Ulrich ROHS et al.	:	
Application No. 09/181,126	:	NOTICE
Patent No. 6,273,823	:	
Filed: October 28, 1998	:	
Attorney Docket No. **ROHS-6**		

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) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
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. 14

JOSEPH S TRIPOLI PATENT OPERATIONS
THOMSON MULTIMEDIA LICENSING INC
PO BOX 5312
PRINCETON, NJ 08543-5312

COPY MAILED

AUG 2 9 2003

OFFICE OF PETITIONS

In re Application of :
Winfried Deckelmann et al :
Application No. 09/181,159 : ON PETITION
Filed: October 28, 1998 :
Attorney Docket No. PHD-97.138 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 4, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 5, 2002.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

The application file is being forwarded to Technology Center AU 2672.

Wan Laymon

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

CC: FRANCIS A. DAVENPORT
2 INDEPENDENCE WAY
PRINCETON, NJ 08540

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6010749
Issue Date: January 4,2000
Application No. 09181343
Filed: October 28,1998
Attorney Docket No. 7439-PA01

:

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

:

This is a decision on the electronic petition, filed March 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 March 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)
6010749	2000-01-04	09181343	1998-10-28	BMGOL-1027483

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Mark A. Goldman/	Date (YYYY-MM-DD)	2008-03-14
Name	Mark A. Goldman		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6460134	2002-10-01	09181406	1998-10-28	31876-0113

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity 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	/Matthew J Booth/	Date (YYYY-MM-DD)	2007-01-26
Name	Matthew J Booth	Registration Number	35454

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6460134
Issue Date: October 1,2002
Application No. 09181406
Filed: October 28,1998
Attorney Docket No. 31876.0113

:

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

:

This is a decision on the electronic petition, filed January 26,2007 ,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 26,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAIL

MAY 25 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Paper No. 14

DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

In re Application of:
Kevin Scott Ramey
Application No.: 09/181,823
Filed: October 29, 1998
For: COMMUNICATION NETWORK UTILIZING AUTONOMOUS SERVERS TO ESTABLISH A COMMUNICATION SESSION

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed September 22, 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 became abandoned for failure to timely reply to a non-final Office action mailed on August 27, 2002. A Notice of Abandonment was mailed June 16, 2003.

Petitioner alleges to have timely filed a proper response to the non-final Office action mailed on August 27, 2002. In support thereof, petitioner provided as evidence, a copy of a request for CPA, a certificate of express mailing along with a photocopy of the Express Mail receipt, a copy of a preliminary remarks filed with the request, a photocopy of payment submitted, and a photocopy of the post card receipt which itemizes the aforementioned items and date stamped as received in the USPTO on November 26, 2002.

The original request for CPA, acknowledged as having been received in the USPTO on November 26, 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." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file. Furthermore, according to the Office's Revenue Accounting and Management software, the original CPA filing fee was received and processed on November 26, 2002.

Therefore, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to Technology Center's technical support staff for processing the copy of the CPA request which accompanied the instant petition. From there, the file will be forwarded to the examiner for appropriate action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6430223
Issue Date: August 6,2002
Application No. 09182194
Filed: October 30,1998
Attorney Docket No. YHK-010

:
: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 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 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.

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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)
6430223	2002-08-06	09182194	1998-10-30	YHK-010

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

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

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

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
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SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2008-06-25
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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2. A record from this system of records may be disclosed, as a routine use, 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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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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DIW Jan-06

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED
JAN 17 2006
OFFICE OF PETITIONS

In re Application of :
Heyse et al. :
Application No. 09/182,499 : ON PETITION
Filed: 30 October, 1996 :
Atty Docket No. 060942-0268-US :

This is a decision on the petitions filed on 9 September, 2003, under 37 CFR 1.181 to withdraw the holding of abandonment and under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

---

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

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

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

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

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

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

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned on 17 December, 2000, for failure to timely reply to the Office Communication mailed on 16 November, 2000, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 15 August, 2001.

Petitioners request withdraw of the holding of abandonment in that the response filed on 19 July, 2000, was a proper reply.

Petitioner concededly received the Office communication mailed on 16 November, 2000, but failed to provide the necessary and timely reply. The failure to supply the proper reply was the fault of petitioner, not the USPTO. As noted in *Brenner v. Ebbert*:[2]

> The Constitution requires notice reasonably designed to forewarn against approaching default; but it does not insure against the effects of a mistaken response to timely notice knowingly received.

It follows that petition had received the reasonable notice required so as to ensure a timely and full response to the Notices. That petitioner failed to timely and adequately respond was unfortunate, but such failure did not operate to save this application from abandonment.

As such, the petition to withdraw the holding of abandonment is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

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

The application will be referred to Technology Center Art Unit 2854 for further processing.

---

[2] 398 F.2d 762, 765, 157 USPQ 609, 611 (D.C. Cir. 1968), cert. den. 159 USPQ 799.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Pennie & Edmonds LLP
1667 K Street NW
Washington DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

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JUL 18 2007

OFFICE OF PETITIONS

Patent Number: 7097372	:	
Issue Date: 08/29/2006	:	
Application Number: 09/182499	:	ON PETITION
Filing Date: 10/30/1998	:	
Attorney Docket Number:	:	
31118/DY9631	:	

This is a decision on the paper filed on 19 October, 2006, which is treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

The processing fee of $130.00 was received on 1 February, 2007.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The application is referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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STEVEN L. NICHOLS
RADER, FISHMAN & GRAVER PLLC
10653 S. RIVER FRONT PARKWAY
SUITE 150
SOUTH JORDAN, UT 84095

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MAR 10 2006
OFFICE OF PETITIONS

In re Application of	:
Caporizzo, et al.	: DECISION ON PETITION
Application No. 09/182,519	:
Filed: October 30, 1998	:
Docket No.: GEN-020	:

This is a decision on the petition to revive under 37 CFR 1.181, filed January 3, 2006.

This application was held abandoned October 8, 2004 for failure to timely submit new formal drawings as required by the Notice of Allowability mailed July 7, 2004. Notice of Abandonment was mailed November 21, 2005.

Review of the record and consultation with the examiner of record has revealed that the requirement for new formal drawings was issued in error.

Accordingly, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Office of Patent Publications for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 30, 2006

TO SPE OF : ART UNIT 2178 (S.P.E. Stephen Hong)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/182,745 Patent No.: 7039857

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**.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

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

7/28/06

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No. 22

THOMAS WEBSTER
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD SEVENTH FLOOR
LOS ANGELES, CA 90025

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JAN 2 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Stanford et al.	:	
Application No. 09/182,833	:	ON PETITION
Filed: October 29, 1998	:	
Attorney Docket No. 042390.P9091	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3282.

This file is being forwarded to the Publishing Division for processing into a patent.

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
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Paper No. None

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JUL 19 2005

OFFICE OF PETITIONS

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re Application of
Richard Chao
Application No. 09/182,862
Patent No. RE 37,545
Filed: October 21, 1998
Issue Date: February 12, 2002
Attorney Docket No. CONT1013SRM/
Title: AUXILIARY LENSES FOR EYEGLASSES

DECISION ON PETITION
UNDER 37 C.F.R. §1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR §1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR §1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

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

This file is being forwarded to Files Repository.

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

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVE
ROSELAND NJ 07068

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MAR 0 5 2007
OFFICE OF PETITIONS

In re Application of	:	
Reitmeier, et al.	:	
Application No. 09/182,933	:	DECISION ON PETITION
Filed: October 30, 1998	:	
Attorney Docket No. SAR13070	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 8, 2007, which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file an Appeal Brief. The Office mailed a final Office action on May 3, 2004. In response, Applicants filed a Notice of Appeal on October 6, 2004.[1] Accordingly, Applicants had a two month extendable period for reply in which to file an Appeal

[1] The Notice of Appeal included a request for a one month extension of time. However, a two month extension of time would have been necessary to make the Notice of Appeal timely (the Notice included a Certificate of Mailing dated October 4, 2004 - October 3, 2004 fell on a Sunday. See 37 CFR 1.7(a)). As applicants included an authorization to charge any additional fees to their deposit account, the $450 fee for a two month extension of time has now been charged to Deposit Account No. 20-0782, as authorized.

Brief. See 37 CFR 41.37(e). Applicants timely filed an Appeal Brief on December 8, 2004 (made timely by including a Certificate of Mailing dated December 6, 2004). However, the Office mailed a Notice of Abandonment on June 20, 2006.

In view of 37 CFR 41.37(e), it is obvious that the Notice of Abandonment was mailed in error.

Accordingly, **the holding of abandonment is withdrawn**.

Given the basis for granting this petition, the $1,500 petition fee has been refunded to Deposit Account No. 50-1358.

The matter is being forwarded to Group Art Unit 2137 for consideration of the Appeal Brief filed December 8, 2004 (made timely by obtaining a Certificate of Mailing dated December 6, 2004).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Paper No. 36

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JAN 29 2004

OFFICE OF PETITIONS

ON PETITION

COLLEEN SUPERKO ESQ.
HALE AND DORR
60 STATE STREET
BOSTON MA 02109

In re Application of
Carl H. June et al
Application No. 09/183,055
Filed: October 29, 1998
Attorney Docket No. 36119-125US8

This is a decision on the petition, filed January 23, 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 October 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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 1644 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] 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

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 13

CLARENCE A GREEN
PERMAN AND GREEN
425 POST ROAD
FAIRFIELD, CT 06430

MAILED

APR 2 6 2001

Technology Center 2600

In re Application of
Pekka Isomursu et al.
Application No. 09/183,343
Filed: October 30, 1998
For: COMMUNICATION NETWORK TERMINAL SUPPORTING A PLURALITY OF APPLICATIONS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the petition filed March 6, 2001, to withdraw the holding of abandonment of the above-identified application.

This application is in an abandoned status for failure to respond in a timely and effective manner to the Final Office Action mailed on June 16, 2000 which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed on January 3, 2001.

Petitioner asserts that the Final Office Action dated June 16, 2000 was not received. In the absence of any irregularity in the mailing of the non-Final Office Action, there is a strong presumption that the non-Final Office Action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-Final Office Action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Final Office Action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Final Office Action on the part of the United States Patent and Trademark Office.

Application No. 09/183,343
On Petition

In support of the petition, the petitioner has submitted a copy of the docket records where the non-received Final Office Action would have been entered had it been received, a copy of the manual docket book, a statement from the practitioner, stating that a search of the office, the application file, and docket records indicated that the Final Office Action was not received.

The petitioner has made a sufficient showing of non-receipt of the non-Final Office Action based upon the docket records submitted and upon the statement from the practitioner. Accordingly, the application was not abandoned in fact.
The petition is **GRANTED.**

It should be noted however that while petitioner uses docket number 442-007078-U for several different patent applications, the system used for recording docket numbers by the USPTO only affords a certain number of characters and the distinguishing suffix used by petitioner to differentiate between applications is not recognized. Using the same docket number for several patent applications in the future may contribute to communications mailed by the USPTO being improperly docketed or not docketed at all by petitioner.

The application file is being forwarded to the Technology Center's support staff for mailing of a new non-Final Office Action. The time period for response will be set to run from the date the new office communication is mailed.

James Dwyer, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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FEB 25 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Paper No. 10

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

In re Application of:
Pekka Isomursu et al
Application No. 09/183,343
Filed: October 30, 1998
For: **COMMUNICATION NETWORK TERMINAL SUPPORTING A PLURALITY OF APPLICATIONS**

ON PETITION

This is a decision on the Petition filed September 4, 2002 to withdraw the holding of abandonment under MPEP 711.03(c)(II) and pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The Notice of Abandonment was mailed July 2, 2002 for failure to respond in a timely manner to the Final Office action mailed May 8, 2001.

On June 6, 2001, applicant filed a request to reset the reply period to the Final Office mailed May 8, 2001. Applicant alleges that the Final Office action was incomplete because it failed to include a PTO-892 form and the copies of the newly cited references. It is noted that the references were not relied upon for grounds of the rejection, but were rather merely made of record. Therefore, these references were not required for applicant to respond to the outstanding Office action. Given that the newly cited art was not needed for response, the request for resetting the reply period is denied.

On May 15, 2002, a decision denying the request to reset the reply period was mailed.

On July 2, 2002, a Notice of Abandonment was mailed for failure to timely submit a proper response to the Final Office action mailed May 8, 2001.

On September 4, 2002, a Petition to Withdraw the Holding of Abandonment was filed.

It is noted that a request to reset the reply period to the Final Office action is not considered a proper response to the Final Office action. Even if a decision on a request to reset the reply period were to take longer than expected, it is applicant's responsibility to keep the application pending to avoid abandonment.

For the above stated reasons, the petition is **DENIED.**

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mailing date of this decision. No further petition fee is required for the request. The reconsideration request should include a cover letter entitled A Renewed Petition To Withdraw the Holding of Abandonment.

The application file will be forwarded to the file repository.

Allen MacDonald

Allen MacDonald, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

In re Application of	:
Pekka Isomursu et al	:
Application No. 09/183,343	: DECISION GRANTING PETITION
Filed: October 30, 1998	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 442-007078-U	:

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

The petition is **GRANTED**.

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

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 $980 extension of time submitted with the petition on October 29, 2004 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (521) 272-3208.

This matter is being referred to Technology Center Art Unit 2681.

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
WASHINGTON, D.C. 20231
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Paper No. 7

FISH & RICHARDSON
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

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FEB 2 2 2002

OFFICE OF PETITIONS

NOTICE

In re Application of :
Vladimir Berezin :
Application No. 09/183,389 :
Filed: October 29, 1998 :
Attorney Docket No. 08305/048001/ :
97-21 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

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

This file is being forwarded to Technology Center AU 2612.

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
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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of
Vladimir L. Serebrennikoc
Application No. 09/183,581
Filed: October 30, 1998
Attorney Docket No. 21065-701

DECISION ON PETITION
TO WITHDRAW
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 May 7, 2010.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

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 undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: C/O FRANK DRECHSLER
SAN WEST, INC
10350 MISSION GORGE ROAD
SANTEE, CA 92071

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. 5964101
Issue Date: October 12,1999
Application No. 09183743
Filed: October 30,1998
Attorney Docket No. 3113-000002/

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

This is a decision on the electronic petition, filed October 12,2009 ,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 12,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,964,101	1999-10-12	09/183,743	1998-10-30	3113-000002/CPE

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Edward R. Schulak/	Date (YYYY-MM-DD)	2009-10-12
Name	Edward R. Schulak		
Enter Reel and Frame Number		Remove	
Reel Number	009714	Frame Number	0785
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

AUZVILLE JACKSON JR
8652 RIO GRANDE ROAD
RICHMOND, VA 23229

COPY MAILED

NOV 0 2 2004

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,097,153	:	
Issue Date: August 1, 2000	:	
Application No. 09/183,937	:	
Filed: November 2, 1998	:	
Patentee(s) John Brawley et al	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 30, 2004, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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

The patent file is being forwarded to Files Repository.

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

ROTHWELL, FIGG, ERNST & MANBECK
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

COPY MAILED

SEP 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Hans Hornauer et al	:	
Application No. 09/184,043	:	ON PETITION
Filed: November 2, 1998	:	
Attorney Docket No. P564-8023	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 24, 2004, and supplemented on July 20, 2005, which is being treated as a Petition under 37 CFR 1.181(a) to Withdraw Holding of Abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the Office letter of July 1, 2003.

The petition states that a timely reply was received in the USPTO on July 31, 2003 . To support this assertion, the petitioner has submitted a copy of the postcard receipt showing the date stamp of July 31, 2003, in the USPTO.

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

No fee was charged for the instant petition.

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

This matter is being referred to Technology Center AU 1641.

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
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6281001
Issue Date: August 28,2001
Application No. 09184501
Filed: November 2,1998
Attorney Docket No. 12416.4USI1

:

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

:

This is a decision on the electronic petition, filed September 10,2009 ,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 10,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6281001	2001-08-28	09184501	1998-11-02	12416.4US11

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Albert W. Watkins reg. #31,676/	Date (YYYY-MM-DD)	2009-09-10
Name	Albert W. Watkins	Registration Number	31676

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET, SUITE 1201
NEW HAVEN, CT 06510

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APR 14 2005

OFFICE OF PETITIONS

In re Application of :
Hermann Pecnik et al :
Application No. 09/184,553 :
Filed: November 2, 1998 :
Attorney Docket No. 05-193 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 10, 1999, which set a shortened statutory period for reply of three (3) months. One month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 11, 2000.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

This matter is being forwarded to Technology Center AU 3681 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

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JUN 21 2006
OFFICE OF PETITIONS

In re Application of	:	
Pecnik et al.	:	
Application No. 09/184,553	:	ON PETITION
Filed: November 2, 1998	:	
Attorney Docket No. 05-193	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 6, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

The file is now being forwarded to Technology Center 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Dec. 2, 2005

TO SPE OF : ART UNIT 2634 (*Stephen Chin*)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,922,434

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.
Please see the Reference Cited not signed on a 1449. Your denial or approval decision is needed below.

sp STACY POWELL

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 x120

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:

Chris M. I — 2611

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. 18

Banner & Witcoff
1001 G. Street N.W., Suite 1100
Washington, DC 20001

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OCT 23 2002

OFFICE OF PETITIONS

In re Application of
Tal Meirzon
Application No. 09/185,070
Filed: November 3, 1998
Attorney Docket No. 003955.00071

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 28, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 29, 2001.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on September 30, 2002.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 2684 for processing the CPA filed with the instant petition.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Cc: Tal Meirzon
Gilat Satellite Networks, Ltd.
Petah Tikva 491330, Israel

AHALL.0113

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC119
OCT 15 2003
PATENT & 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

Halliburton Energy Services, Inc.
P.O. Box 819052
Dallas TX 75381-9052

COPY MAILED

SEP 17 2003

OFFICE OF PETITIONS

In re Application of
Michael D. Ezell
Application No. 09/185,220
Filed: November 3, 1998
Attorney Docket No. 970353-U1-US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 26, 2003, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed May 7, 2002, which set a statutory period for reply of three(3) months. The above-identified application became abandoned on August 8, 2002.

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

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to the Office of Publications to be processed into a patent.

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

cc: David W. Carstens
Carstens, Yee & Cahoon, L.L.P.
P.O. Box 802334
Dallas, TX 75240

Attachment

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6079649
Issue Date: June 27,2000
Application No. 09185268
Filed: November 3,1998
Attorney Docket No. 814880575704

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

This is a decision on the electronic petition, filed February 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 February 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6079649	2000-06-27	09185268	1998-11-03	38166.2

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	/Daniel A. Rosenberg/	Date (YYYY-MM-DD)	2009-02-02
Name	Daniel A. Rosenberg	Registration Number	44308

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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Alexandria, VA 22313-1450
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In re Patent No. 6911344
Issue Date: June 28,2005
Application No. 09185318
Filed: November 3,1998
Attorney Docket No. 21101.0112U2

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

This is a decision on the electronic petition, filed September 9,2009 ,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 September 9,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6911344	2005-06-28	09185318	1998-11-03	21101.0112U2

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

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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 A. Cornett/	Date (YYYY-MM-DD)	2009-09-09
Name	David A. Cornett	Registration Number	48417

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

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

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

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

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

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which 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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www.uspto.gov

MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:
Shui-On Leung et al	:
Serial No.: 09/185,607	: WITHDRAWAL OF ATTORNEY
Filed: November 4, 1998	:
Attorney Docket No.: 018733-0875	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or
(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

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

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

Paper No. 7

MAIL

MAR 14 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FINNEGAN HENDERSON FARABOW GARRETT
& DUNNER
1300 I STREET NW
WASHINGTON, DC 20005

In re Application of:
Frederick R. Guy, et al.
Application No.: 09/185, 703
Filed: November 4, 1998
For: REMOTE LEARNING SYSTEM

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw as Attorney or Agent of record filed December 29, 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 while there are other Attorneys of Record associated with this application, this Request for Withdrawal as Attorney or Agent is only effective for Jeffrey A. Berkowitz, since he is the only attorney/agent specifically mentioned in the request.

The correspondence address will be changed. All future communications from the United States Patent and Trademark Office (Office) will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: JOHN F. SWEENEY
MORGAN & FINNEGAN
345 PARK AVENUE
NEW YORK, NEW YORK 10154

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ZAFMAN
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGLES, CA 90025

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JUN 0 2 2006

OFFICE OF PETITIONS

In re Application of

Poisner, et al.

Application No: 09/186,056

Filed: November 3, 1998

Attorney Docket No. 042390.P6344

DECISION ON PETITION

This is a decision on the petition titled, "Petition to Correct Filing Date", filed May 3, 2006, which will be treated as a petition under 37 CFR 1.53(e). This is also a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 22, 2003.

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

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

TREATMENT UNDER 37 CFR 1.181

A review of the application file reveals that the application was filed on November 3, 1998, without a properly executed declaration under 37 CFR 1.63. A Notice to File Missing Parts of Nonprovisional Application was mailed on November 19, 1998, requiring a properly executed declaration and surcharge. The record does not reveal that a timely and proper response was filed to the Notice of Missing Parts. The application was abandoned, by operation of law, on January 20, 1999. A Notice of Abandonment was not mailed until October 28, 2003. On December 1, 2004, a "Withdrawal of Previously Sent Notice" was sent withdrawing the Notice of Abandonment. There is no indication that the Notice to File Missing Parts was withdrawn, however. The application was, therefore, abandoned on January 20, 1999, notwithstanding the withdrawal of the Notice of Abandonment.

The instant petition to withdraw the holding of abandonment was filed on December 22, 2003. Petitioner maintains that the Notice to File Missing Parts of Nonprovisional Application was never received.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not

received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The petition is granted. The holding of abandonment is, therefore, withdrawn.

TREATMENT UNDER 37 CFR 1.53

The record reveals that the filing date for the application was originally November 3, 1998. On filing, the application papers met every requirement of 37 CFR 1.53 necessary to be accorded a filing date. Although the application did not have a executed declaration, it is noted that a declaration is not required to obtain a filing date and the filing of the same at a later point in the prosecution would not result in a change to the filing date.

The record reflects that when the petition to withdraw the holding of abandonment was filed on December 22, 2003, the Office of Initial Patent Examination changed the filing date for the application to December 22, 2003—the date the petition was filed. There is nothing in the record to support the change in the filing date to December 22, 2003. Accordingly, the petition under 37 CFR 1.53 to correct the application filing date is granted. The filing date for the application is November 3, 1998.

The application file is being forwarded to the Office of Initial Patent Examination for restoration of the original filing date of November 3, 1998, and issuance of a corrected filing receipt. Thereafter, the application file will be directed to the Office of Patent Publications for processing into a patent.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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Paper No. 17

LOUIS P. HERZBERG
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT.
PO BOX 218
YORKTOWN HEIGHTS, NY 10598

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MAY 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Bright et al.	:	
Application No.: 09/186,247	:	ON PETITION
Filing Date: November 4, 1998	:	
Attorney Docket No.: YOR919980331US1	:	

This decision concerns the February 27, 2004 "Petition for Revival under 37 CFR 1.137(b)" which is being treated as a petition under 37 CFR 1.181 to withdraw the holding pf abandonment in this application.

The petition is **GRANTED.**

On November 23, 2001, a final Office Action was mailed, setting forth a 3-month shortened statutory reply period.

On April 5, 2002 (Certificate of Mailing date April 2, 2002), a request to file a continuing application under 37 CFR 1.53(d) (CPA) was filed along with, *inter alia*, an amendment and an authorization to charge any required fees (other than issue fee) to Deposit Account No. 09-0468.[1]

However, the timely filed CPA was not entered. In addition, an Advisory Action was mailed on April 25, 2002, stating that the April 5, 2002 amendment would not be entered. A Notice of Abandonment was mailed on September 27, 2002.

The Office notes that the instant application was filed before May 29, 2000. Accordingly, the CPA, timely filed on April 5, 2002, was a proper reply to the November 23, 2001 final Office

[1] Including the $740 CPA filing fee. Also, a 2-month extension of time ($400 for other than small entity) was required, but the USPTO inadvertently charged the deposit account $110 and $90, totaling $200 (the fee amount for a small entity). The deficiency of $200 has been charged to the same deposit account.

action,[2] and should have been entered along with the concurrently filed amendment.

In view of the above, the application should not have been held abandoned. The holding of abandonment in the application is hereby withdrawn, and the September 27, 2002 Notice of Abandonment vacated.

No petition fee is owed, and none was charged to counsel's deposit account.

The application file is being returned to Technology Center 2600 for vacating the April 25, 2002 Advisory Action, and for entry of the April 5, 2002 CPA and amendment.

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

RC Tang
Petitions Attorney
Office of Petitions

---

[2] See MPEP 711.03(c)(III)(A)(2)(b) (Rev. 1, Feb. 2003).

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Alexandria, VA 22313-1450
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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

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JUN 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Gantt et al.	:	
Application No. 09/186,270	:	ON PETITION
Filed: 4 November, 1998	:	
Atty Dckt No. 30566.57USRE	:	

This is a decision on the petition filed on 18 May, 2005, under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where they requires that a supplemental declaration be executed by a named inventor.[1]

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On 4 November, 1998, the application was filed as an application for reissue of U.S. Patent No. 5,572,639.

2. On 18 May, 2005, a petition was filed to waive the signature of one of the inventors, Brian D. Gantt, on a supplemental declaration. Petitioners assert that a copy of the supplemental declaration was sent to Gantt, but that he has failed to return an executed copy. Additionally, a supplemental declaration under

[1] Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

37 CFR 1.175 naming Brian D. Gantt and Alfredo Contreras was filed.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to obtain the signature of Brian D. Gantt on the supplemental declaration in compliance with 37 CFR 1.175, and Mr. Gantt's failure to sign and return the declaration, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Gantt on the supplemental declaration filed on 18 May, 2005.

CONCLUSION

1. The petition is granted.

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

3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JUN 27 2003

#20

BETH A. BURROUS
FOLEY & LARDNER
WASHINGTON HARBOUR
3000 K STREET, N.W., SUITE 500
WASHINGTON DC 20007-5109

In re Application of	:
Annie Fong et al	:
Serial No.: 09/186,475	: WITHDRAWAL OF ABANDONMENT
Filed: November 4, 1998	:
Attorney Docket No.: 038602-0297	:

This is in response to the petition under 37 CFR 1.181, filed March 19, 2003, requesting withdrawal of abandonment based on a timely filed reply.

A review of the file history shows the examiner mailed a Final Office action to applicants on May 21, 2002, setting a three month shortened statutory period for reply. Applicants replied on November 21, 2002, with an amendment after final rejection, a Notice of Appeal and a request for a three month extension of time and fees therefor. The examiner mailed an Advisory action to applicants on January 28, 2003, indicating entry of the amendment but that it did not place the case in condition of allowance. The examiner also indicated that the Appeal Brief was due in view of the Notice of Appeal filed October 1, 2002. The correct date for receipt of the Notice of Appeal is November 21, 2002. The examiner mailed a Notice of Abandonment to applicants on February 26, 2003, since the Notice of Appeal was never entered in the electronic data base and the application appeared to be abandoned. The Notice of Abandonment was mailed in error and is withdrawn and the application restored to pending status with the mailing of this decision. Applicants have, since the filing of this petition, filed RCE papers on April 21, 2003.

Applicants' petition is **GRANTED**.

The application will be forwarded for entry of the Notice of Appeal and the RCE papers and then forwarded to the examiner.

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.

Jasemine C. Chambers
Director, Technology Center 1600

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Group 2700

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United States Patent and Trademark Office
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Paper No. 9

Geoff L. Sutcliffe
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309-4530

In re Application of Charles R. Bobo, II Application Serial No. 09/186,595 Filed: November 5, 1998 For: SYSTEMS AND METHODS FOR STORING, DELIVERING, AND MANAGING MESSAGES	)))))))	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed May 9, 2000, and supplemented by way of facsimile on June 7, 2000 requesting the withdrawal of the holding of abandonment of the above-identified application.

The application became abandoned, as indicated in the Notice of Abandonment of March 31, 2000, for an apparent failure to timely file new formal drawings as required by the Notice of Allowability of December 21, 1998. Particularly, it was indicated in the Notice of Abandonment that no new proposed formal drawings had been received to cure defects recognized by the Draftsperson in Form PTO-948, attached to the Notice of Allowability.

Petitioner asserts that the Notice of Allowability did *not* indicate that any additional action was required by the Applicant beyond payment of the Issue Fee, such as the submission of new formal drawings. As supplemented on June 7, 2000 the petition provides evidence by way of a copy of the Notice of Allowability received by applicant. The copy of the Notice of Allowability makes no indication that new formal drawings were required and does not indicate an attached Draftsperson's Patent Drawing Review, Form PTO-948. There is an apparent inconsistency between the Notice of Allowability of record in the file and that of the copy submitted by petitioner on June 7, 2000. Applicant has since filed another set of formal drawings on May 12, 2000.

In view of the above circumstances, and the inconsistencies between applicant's record and the present Office record, the Notice of Abandonment mailed March 31, 2000 is hereby vacated.

The petition is **GRANTED**.

The application file is being forwarded to the Technical Support Staff for entry of the formal drawings filed May 12, 2000. From there the application file will be forwarded to the examiner for consideration of the Information Disclosure Statement filed February 8, 1999 in accordance with 37 C.F.R. §§ 1.97, and 1.98, and take appropriate action.

John Love, Director
Technology Center 2700
Communications and Information Processing

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. 14

Brenda O. Holmes
Kilpatrick Stockton, LLP
Suite 2800
1100 Peachtree Street, NE
Atlanta, GA 30309

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JUN 2 9 2004

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,350,066 :
Issue Date: February 26, 2002 :
Application No. 09/186,595 :
Filed: November 5, 1998 :
Attorney Docket No. 10172/184506 :

This is a decision on the petition under 37 CFR 1.182, filed June 14, 2004, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to Andrea Smith at (703) 308-6711. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 305-8237.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances Hicks
Lead Petitions Examiner

cc: Krystal Paige, P/OPPD, Crystal Park 3 - 910 (FAX 305-4372)

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 9

GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY SD 57049

MAIL

FEB 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Mark Rapaich
Application No. 09/186,817
Filed: November 5, 1998
For: MULTIPLE AUDIO DACS WITH PC COMPATIBILITY

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment pursuant to 37 C.F.R. § 1.181(a), filed November 28, 2003. No fee is required.

This application was held as abandoned for failure to file a timely response to the outstanding Office action, mailed December 17, 2002. A Notice of Abandonment has not been mailed.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. The petition is **GRANTED.**

The holding of abandonment is withdrawn.

The application file is being returned to the examiner for update of the Office action as appropriate. From there, the application will be forwarded to the TC2600 Technical Support Staff for mailing of the updated Office action. The period for response will be set to run from the date of the new mailing.

Mark Powell, Director
Technology Center 2600
Communications
(703) 305-4800

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

COPY MAILED

NOV 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Geoffrey B. Rhoads	:	
Application No. 09/186,962	:	DECISION GRANTING PETITION
Filed: November 5, 1998	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 4830-50848/W	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 21, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit corrected drawings on or before June 14, 2004, as required by the Notice of Allowability, mailed March 12, 2004. The issue fee was timely paid on June 10, 2004. A Notice of Abandonment was mailed on September 7, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of drawings, which have been approved by the Official Draftsperson (note attached Notice of Draftsperson's Patent Drawing Review); (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of March 12, 2004 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 Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review

Form PTO-948 (Rev. 06/03)
Application No. 09/186,962

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 11/05/1998 & 09/21/2006 are:

A. ✓ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. _____ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)_____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)_____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)_____

___ Poor quality (half-tone). Fig(s)_____

3. TYPE OF PAPER. 37 CFR 1.84(e)

___ Paper not flexible, strong, white, and durable. Fig(s)_____

___ Erasures, alterations, overwritings. interlineations, folds, copy machine marks not accepted. Fig(s)_____

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)_____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:
Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)_____

_____Top (T) _____ Left (L)

_____Right (R) _____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

___Views not labeled separately or properly. Fig(s)_____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

____ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)_____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)_____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)_____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)_____

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s) _____

___ Solid black shading not permitted. Fig(s)_____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

___ Numbers and reference characters not plain and legible. Fig(s)_____

___ Figure legends are poor. Fig(s)_____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)_____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)_____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)_____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)_____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)_____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)_____

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)_____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)_____

COMMENTS:

Reviewer SON LAM

Date 11/08/2006

If you have questions, call (703) ~~305-8404~~ 305-0333 (EXT. 133)

Attachment to Paper No. _____

☆ U.S. GOVERNMENT PRINTING OFFICE: 2003-300-153

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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In re Patent No. 6058514
Issue Date: May 9,2000
Application No. 09187011
Filed: November 4,1998
Attorney Docket No. MONI-B83

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 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 July 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)
6058514	2000-05-09	09187011	1998-11-04	

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

Patent Practitioner			
A signature of the applicant or representative is required 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 Klein/	Date (YYYY-MM-DD)	2008-07-03
Name	David Klein	Registration Number	41118

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 7

Winston Hsu
P.O. Box 506
Merrifield, VA 22116

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OCT 1 1 2002

OFFICE OF PETITIONS

In re Application of
Jacson Liu
Application No. 09/187,197
Filed: November 3, 1998
Attorney Docket No. MVIP0005USA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 10, 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 Restriction Requirement mailed February 17, 1999, which set a shortened statutory period for reply of thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 19, 1999.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to 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 2822.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Karen Creasy for

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

Winston Hsu
P.O. Box 506
Merrifield, VA 22116

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JUN 0 9 2004
OFFICE OF PETITIONS

In re Application of :
Jacson Liu :
Application No. 09/187,197 : ON PETITION
Filed: November 3, 1998 :
Attorney Docket No. MVIP0005USA :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2004, to revive the above-identified application.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to timely reply to the Office action mailed September 22, 2003, which set a thirty (30) day period to reply. Accordingly, this application became abandoned on October 23, 2003. A Notice of Abandonment was mailed on May 3, 2004.

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 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, 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.

The required reply has not been submitted. Accordingly, the petition must be dismissed.

Please note, 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).

Furthermore, a copy of the September 22, 2003 Office action is attached for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

Attachment:
September 22, 2003 Office Action

UNITED STATES 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. 16

WINSTON HSU
P.O. BOX 506
MERRIFIELD, VA 22116

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AUG 1 7 2004

OFFICE OF PETITIONS

In re Application of :
Jacson Liu :
Application No. 09/187,197 : ON PETITION
Filed: November 3, 1998 :
Attorney Docket No. MVIP0005USA :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Office action mailed September 22, 2003, which set a thirty (30) day period to reply. Accordingly, this application became abandoned on October 23, 2003. A Notice of Abandonment was mailed on May 3, 2004.

Petitioner contends the Office action was never received by applicant. 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).

Petitioner has submitted the necessary statement and docket records that indicate non-receipt of the Office action. As such,

the petition shall be treated as a petition under 37 CFR 1.181 and the holding of abandonment is withdrawn.

The $1330.00 petition fee, submitted May 27, 2004, will be refunded to deposit account no. 50-3105.

This application is being forwarded to Technology Center 2800 for review of the amendment, filed August 4, 2004, *in due course*.

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

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Paper No. 28

J GEORG SEKA
TOWNSEND AND TOWNSEND AND CREW
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111

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MAY 07 2004

OFFICE OF PETITIONS

In re Application of	:	
Allington et al.	:	
Application No. 09/187,472	:	ON PETITION
Filed: November 6, 1998	:	
Attorney Docket No. 17990-1-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 11, 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 August 27, 2002, and no extensions of time under the provisions of 37 CFR 1.136(b) was 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 October 28, 2002. See MPEP 1215.04. A Notice of Abandonment was mailed on April 22, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 1700 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
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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. 6274924
Issue Date: August 14,2001
Application No. 09187547
Filed: November 5,1998
Attorney Docket No. 10971414-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 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 November 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
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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)
6274924	2001-08-14	09187547	1998-11-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael E Marion/	Date (YYYY-MM-DD)	2009-11-03
Name	Michael E. Marion	Registration Number	32266

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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)
6270680	2001-08-07	09187623	1998-11-06	2201

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity 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 K. Roberts/	Date (YYYY-MM-DD)	2009-10-09
Name	Larry K. Roberts	Registration Number	28464

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6270680
Issue Date: August 7,2001
Application No. 09187623
Filed: November 6,1998
Attorney Docket No. BIOQUST.012A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 9,2009 ,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 9,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

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Paper No. 6

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

CHIRON CORPORATION
INTELLECTUAL PROPERTY-R440
P.O. BOX 8097
EMERYVILLE, CA 94662-8097

In re Application of
Shirley et al.
Application No. 09/187,661
Filed: 5 November, 1998
Attorney Docket No. 5784-3

: DECISION DISMISSING PETITION

This is a decision on the petition filed 8 January, 1999, requesting that the above-identified application be accorded a filing date of 6 November, 1998, instead of the presently accorded filing date of 5 November, 1998. The petition is properly treated as a petition under 37 CFR 1.10(d).[1]

Petitioner alleges that the application was deposited in Express Mail service on 6 November, 1998, and that the United States Postal Service (USPS) made an incorrect "date-in" entry. In support of the petition, petitioner submitted, *inter alia,* (a) a copy of Express Mail receipt No. EM166858928US (the same Express Mail number found on the transmittal letter filed with the original application papers

[1]Effective 1 December, 1997, paragraph (d) of 37 CFR 1.10 states that::

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

located in the official file) showing a "date-in" of 5 November, 1998; (b) a copy of the transmittal letter showing the practitioner's docket number, the Express Mail receipt number listed above, and a Date of Deposit of 6 November, 1998, and (c) a copy of the post card receipt showing the practitioner's docket number, a date of 6 November, 1998, and a U.S. Patent and Trademark Office date stamp of 5 November, 1998. It is noted that the transmittal letter, reference (b) above, contains a certificate of mailing from Rebecca Allen stating that it was deposited in "Express Mail Post Office to Addressee" on 6 November, 1998.

The instant petition lacks the showing required by 37 CFR 1.10(d)(3). Petitioner has not made an adequate showing that the requested filing date is the date the correspondence was deposited in the Express Mail service. Petitioner has submitted no evidence from the USPS which would corroborate petitioner's assertion, that is, the "date-in" was incorrectly entered by the USPS. If fact, the evidence submitted supports the USPTO's position that the application was in fact deposited on 5 November, 1998. Furthermore, petitioner's reliance on the certificate of mailing is not well taken because a certificate of mailing is no longer required under 37 CFR 1.10. At best, the certificate of mailing serves as evidence of petitioner's original intent to deposit the application in Express Mail on 6 November, 1998, not as evidence of the actual deposit of the application in Express Mail.

The petition is dismissed. The petition fee will not be refunded.

Any request for reconsideration (no further petition fee is required) must be filed within TWO MONTHS of the date of this decision in order to be considered timely [37 CFR 1.181(f)]. The request 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 4
Room 3-C23
2201 South Clark Place
Arlington, VA 22202

The application is being forwarded to Technology Center 1600 with a filing date of 5 November, 1998, and for treatment in due course of the Response to Restriction Requirement filed 12 June, 1999, in reply to the restriction request mailed 6 June, 1999.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Fred A. Silverberg
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
www.uspto.gov

Paper No. 22

Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shirley et al. :
Application No. 09/187,661 :
Filed: November 5, 1998 :
Attorney Docket No. 5784-3 (PP01468.002) :

This is a decision on the petition filed June 9, 2000, and supplemented January 3, 2002, to accord the above-identified application a filing date of November 6, 1998, instead of November 5, 1998.

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 NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

37 CFR 1.10(d) states:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

As to (3), the record fails to include the necessary corroborating evidence. For the petition to be granted, the showing must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The only evidence from the USPS which has been provided is an Express Mail label with a date-in of November 5, 1998. Evidence from the USPS may be an Express Mail Corporate Account Mailing Statement. A copy of Alston and Bird's Express Mail Corporate Account Mailing Statement for November of 1998 has not been provided.

Petitioner does not explicitly allege that any of the firm's records, such as logbook entries, were created within one business day after the mailing of the application. Rebecca Allen merely states that the logbook entries were made on the same day the application was mailed. Therefore, the firm's records may not be considered to be corroborating evidence under 37 CFR 1.10(d)(3).

Petitioner states the instant application was mailed the same time as application no. 09/188,051, which was given a filing date of November 6, 1998, by the PTO. Petitioner has supplied an express mail label for the other application which has a date-in of November 5, 1998. Petitioner alleges the filing date for application no. 09/188,051 supports a filing date of November 6, 1998, for the instant application. However, if the applications should be given the same filing date, then applicant has failed to establish why the filing date should not be November 5, 1998.

Petitioner is reminded that the issue fee for the instant application is due by February 20, 2002.

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 request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: 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

If a request for reconsideration is not timely submitted, the file will be forwarded to Publishing Division for further processing.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Roberta Robins
Robins & Pasternak
90 Middlefield Road
Suite 200
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 26

Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

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OFFICE OF PETITIONS

In re Application of:
Shirley, *et al.*
Application No. 09/187,661
Filed: November 6, 1998
Attorney Docket No. 5784-3

DECISION GRANTING PETITION

This is a decision on the March 28, 2002 petition under 37 C.F.R. §1.10(d) requesting that the above-identified application be accorded a filing date of November 6, 1998, rather than the presently accorded filing date of November 5, 1998.

Petitioner alleges that the application was deposited in Express Mail service on November 5, 1998. In support, the petition is accompanied by copies of Petitioner's mail logs and docketing slips, in addition to declarations by Rebecca Allen.

In view of the above, *this petition is* ***granted***.

This application will be returned to for correction of the filing date to November 6, 1998.

Telephone inquiries concerning this matter may be directed to the undersigned in the Office of Petitions at (703) 306-5593.

Scott M. Ledford
Attorney
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. 12

CHRISTOPHER A HARE
ABGENIX INC
7601 DUMBARTON CIRCLE
FREMONT, CA 94555

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JAN 19 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Aya Jakobovits et al. :
Application No. 09/187,693 :
Filed: November 5, 1998 :
Attorney Docket No. Cell 4.20 CIP2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 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 Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice) mailed March 1, 2000. The Notice set a period for reply of one (1) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 2, 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 $1890 extension of time submitted with the petition on November 7, 2000 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

Any inquiry concerning the examination process of this application should be directed to the assigned examiner.

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

Paper No. 28

JANE T. GUNNISON, ESQ.
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
NEW YORK, NY 10020

COPY MAILED

FEB 17 2004

OFFICE OF PETITIONS

In re Application of
Jakobovits et al.
Application No. 09/187,693
Filed: November 5, 1998
Attorney Docket No. CELL 4.20 CIP2 CPA

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 6, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed August 27, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on November 28, 2002. A Notice of Abandonment was mailed on April 22, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The Notice of Appeal filed October 6, 2003, has been entered and made of record. Accordingly, the 2-month period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

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 October 6, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1600 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6050000
Issue Date: April 18,2000
Application No. 09187723
Filed: November 5,1998
Attorney Docket No. ROCKCO-P40AU

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 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 May 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.

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)
6050000	2000-04-18	09187723	1998-11-05	ROCKCO P40AUS

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/mjb0213/	Date (YYYY-MM-DD)	2008-05-20
Name	Michael J. Bujold	Registration Number	32018

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 9

SAINA S. SHAMILOV
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

COPY MAILED

NOV 1 3 2002

OFFICE OF PETITIONS

In re Application of	:	
Andrew T. Busey	:	
Application No. 09/187,895	:	ON PETITION
Filed: November 6, 1998	:	
Attorney Docket No. 004068.P004X2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 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 October 23, 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 January 24, 2002.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2176.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 36

FARKAS AND MANELLI
SEVENTH FLOOR
2000 M STREET N.W.
WASHINGTON, DC 20036-3307

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MAY 2 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Wenze Lou	:	
Application No. 09/188,241	:	
Filed: November 9, 1998	:	
Attorney Docket No. 73-825	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 31, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 2816 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

In re Patent No. 6058157
Issue Date: May 2,2000
Application No. 09188333
Filed: November 9,1998
Attorney Docket No. PM-257832

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 16,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 16,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6058157	2000-05-02	09188333	1998-11-09	PM-257832

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/sona dalal/	Date (YYYY-MM-DD)	2008-10-13
Name	Sona Dalal	Registration Number	50777

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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

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JUN 04 2008

OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

In re Application of	:	
Mark BODDY, et al	:	
Application No. 09/188,399	:	DECISION ON PETITION
Filed: November 6, 1998	:	TO WITHDRAW
Attorney Docket No. 256.029US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed August 30, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Bradley A. Forrest does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
PO BOX2245
MORRISTOWN, NJ 07962-2245

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6082856
Issue Date: July 4,2000
Application No. 09188432
Filed: November 9,1998
Attorney Docket No. 48489

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 14,2009 ,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 14,2009 . 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)
6082856	2000-07-04	09/188,432	1998-11-09	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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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

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Joseph R. Thomas/	Date (YYYY-MM-DD)	2009-01-07
Name	Joseph R. Thomas, President of Wavesource, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	021876	Frame Number	0186
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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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

COPY MAILED

OCT 26 2005

OFFICE OF PETITIONS

In re Patent No. 6,207,596	:	
Issue Date: March 27, 2001	:	
Application No. 09/188,442	:	ON PETITION
Filed: November 9, 1998	:	
Attorney Docket No. 7334	:	

This is a decision on the petition, filed April 25, 2005, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is GRANTED.

The patent issued March 27, 2001. The grace period for paying the first maintenance fee expired on March 28, 2005. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

This matter is being referred to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/188810

Paper No.: _____

DATE : 5/15/2006

TO SPE OF : ART UNIT 3600 (3624)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,010,512

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 figures as requested in C of C?

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:

Vincent Millin 02 — **SPE**

3624 — **Art Unit**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6505341	2003-01-07	09/189,027	1998-11-10	

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	/Christopher Novak/	Date (YYYY-MM-DD)	2007-10-26
Name	Christopher Novak	Registration Number	42041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6505341
Issue Date: January 7,2003
Application No. 09189027
Filed: November 10,1998
Attorney Docket No. 16587-0011

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 29,2007 ,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 October 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:200701034

DATE : January 3, 2007

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction on Patent No.: 6,994,841

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:

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER

SPE: Michael G. Hartley **Art Unit** 1618

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

TRASK BRITT & ROSSA
P O BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED

AUG 2 0 2002

OFFICE OF PETITIONS

In re Application of
Alan R. Reinberg
Application No. 09/189,098
Filed: November 9, 1998
Attorney Docket No. 3528US-(97-1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 14, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a proper reply to the final Office action mailed October 24, 2001. A shortened statutory period of three-months was set forth for a reply. A reply was received on May 8, 2002. By an Advisory Action mailed May 17, 2002, petitioner was advised that the reply of May 8, 2002, did not place the application in condition for allowance. No further responses were received within the allowable period. The application, therefore, became abandoned January 25, 2002.

The Request for Continued Examination, June 14, 2002, is noted and made of record.

The application file is being forwarded to Technology Center 2800 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
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

KM:7-01

Paper No: 23

SEED INTELLECTUAL PROPERTY LAW GROUP
701 FIFTH AVENUE, SUITE 6300
SEATTLE, WASHINGTON 98104-7092

COPY MAILED

AUG 1 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of: :
Finlay, et al. :
Filed: 10 November, 1998 :
Application No. 09/189,415 :
Attorney Docket No. 07422/013001 :

ON PETITION

This is a decision on the petition filed herein on 13 July, 2001, under ¶ "b" of 37 C.F.R. §1.137[1] to revive the above-identified application.

The petition is **GRANTED**.

Note: There is no evidence in the record that petitioner was in a position to have firsthand or direct knowledge that the delay in filing a timely reply was unintentional. Further, the statement of unintentional delay does not comply with the provisions of 37 C.F.R. §1.137(b)(3) in effect as of December 1, 1997. Nevertheless, the statement presented will be accepted and construed as meaning that "the entire

---

[1] The regulations at 37 C.F.R. §1.137 provide:

§ 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]

delay in filing the required reply from the due date for the reply until the filing of a grantable petition to pursuant to 37 C.F.R. §1.137(b), was unintentional." If this is an incorrect interpretation in view of the new rules, petitioner is required to provide a statement to that effect. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The record indicates that:

- petitioner failed to timely respond to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed on 28 July, 2000, with a shortened statutory deadline for reply of 28 August, 2000;
- the application became abandoned at midnight on 28 August, 2000;
- a notice of abandonment was mailed on 7 March, 2001;
- a copy of the 28 July Office action was mailed to petitioner on 27 June, 2001;
- a response to the Office action was filed on 13 July, 2001.

This application will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter may be directed to Kathy Matecki at (703) 305-1645.

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

JOHN H. HORNICKEL, ESQ.
POLYONE CORPORATION
33587 WALKER ROAD
AVON LAKE, OH 44012-0122

Mail Date: 04/21/2010

Applicant	: JERRY ALAN BODI	: DECISION ON REQUEST FOR
Patent Number	: 6375864	: RECALCULATION of PATENT
Issue Date	: 04/23/2002	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/189,464	: OF WYETH
Filed	: 11/10/1998	:
		:

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.

SPE: H. Alam

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/6/07

TO SPE OF : ART UNIT 2166

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/189,559 Patent No.: 7028019

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: ① Column 45, line 23, replace "the" with -- --
② Column 45, line 24, replace " " with --the --

H. Alam
SPE

2166
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

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. 6,159,229

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. 6,159,229, (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-0206

DATE: 3-11-08 APPLICATION NUMBER: 09/189743

DOC CODE: TERM. WD DOC DATE: 2-11-08

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

PTO/SB/21 (01-08)
Approved for use through 02/29/2008. 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.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission: 28+

Application Number	Pat No. 6,309,402
Filing Date	October 30, 2001 (Issued)
First Named Inventor	Bradley A. Jendersee et al.
Art Unit	
Examiner Name	Michael Buiz
Attorney Docket Number	19 51288-00070

RECEIVED
FEB 15 2008
OFFICE OF PETITIONS

ENCLOSURES *(Check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment/Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ 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) _____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☑ Other Enclosure(s) (please Identify below):

Election of U.S. Pat. No. 6,309,402 for Extension (1 pg); Copy of U.S. Pat. 6,309,402 (13 pgs); Withdrawal of Application for Extension of Patent Term for U.S. Pat Nos. 5292331; 5800509; 5836965; 5879382; 5891190;6159229; and 6344053 (14 pgs); and Postage paid postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name	Louis C. Cullman		
Date	2/11/08	Reg. No.	39645

CERTIFICATE OF EXPRESS MAIL - EM 051046341 US

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	Maria Nadal		
Typed or printed name	Maria Nadal	Date	2/11/08

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark 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.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No.	:	**6,159,229**
Granted	:	**December 12, 2000**
Patentees	:	**Bradley A. Jendersee *et al.***
Assignee	:	**Medtronic Vascular, Inc.**
Title	:	**Stent Delivery and Deployment Method**

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Withdrawal of Application for Extension of Patent Term for USPN 6,159,229

Commissioner for Patents:

The Applicant, MEDTRONIC VASCULAR, INC., in fulfillment of its requirements under 37 CFR §1.785 respectfully WITHDRAWS the Application for Extension of Patent Term for United States Patent Number (USPN) **6,159,229**. This request for withdrawal is being submitted in duplicate as required by 37 CFR §1.770.

The Applicant, MEDTRONIC VASCULAR, INC., in fulfillment of its requirements under 37 CFR §1.785 previously ELECTED USPN 6,309,402 B1 for patent term extension pursuant to a Notice of Final Determination and Requirement for Election mailed January 11, 2008. A patent term extension period of 413 days was determined based on the regulatory review period of PMA P030009.

The Commissioner is hereby authorized to charge any fees which may be required under 37 CFR §1.182 or 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Applicant can answer any questions associated with this WITHDRAWAL of Application for Extension of Patent Term please do not hesitate to call the undersigned at telephone number (949) 623-3559.

Respectfully submitted,

Louis C. Cullman
Registration No. 39,645
Attorney for Applicant

Medtronic Vascular, Inc.
3576 Unocal Place
Santa Rosa, CA 95403
Facsimile No.: (707) 543-5420
Cutomer Number 28,390

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Elan Drug Delivery, Inc. c/o Foley & Lardner
3000 K Street, N.W.
Suite 500
Washington DC 20007-5109

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MAY 28 2010

OFFICE OF PETITIONS

In re Patent of Bosch et al.	: DECISION ON REQUEST
Patent No. 7,521,068	: FOR
Issue Date: April 21, 2009	: RECONSIDERATION OF
Application No. 09/190,138	: PATENT TERM ADJUSTMENT
Filed: November 12, 1998	: and
Atty Docket No. 029318/0109	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 19, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred forty-seven (1247) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred forty-seven (1247) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

Patentees explicitly object to the Office's entry of a 120 day reduction in patent term adjustment for an amendment filed December 22, 2008.

Patentees implicitly object to the Office's entry of a 32 day reduction in patent term adjustment for an Amended Appeal Brief, filed July 30, 2007.

Patentees assert the patent term adjustment should be increased as a result of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

With respect to the December 22, 2008 amendment after Notice of Allowance, it is apparent from a review of the Office communication mailed December 19, 2008 that the examiner of record explicitly requested patentees file the amendment in question. Therefore, no reduction is

warranted pursuant to 37 CFR 1.704(c)(10). Accordingly, the 120 day reduction is being removed.

With respect to the July 30, 2007 Amended Brief on Appeal, ordinarily there are no reductions during the appeal period. It is noted that the Board of Patent Appeals and Interferences issued a decision in favor of patentees on June 23, 2008 and reversed the examiner. No reduction is warranted for the July 30, 2007 Amended Brief of Appeal. Accordingly, the 32 day reduction is being removed.

With respect to the assertion that patentees are due an adjustment for B Delay, patentees have not made a specific request as to the number of days they desire. The Office has determined the number of days of B Delay is 0 days. Applicants filed a CPA on June 5, 2001. This was a new application under 37 CFR 1.53(d) and required an express abandonment of the original application, filed November 12, 1998. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The period of B Delay in this case is 0 days, because a RCE was filed on October 15, 2002, which is within the three years of the filing date of the CPA. *See* 37 CFR 1.703(b).

The correct patent term adjustment is 1247 days, which is the sum of 1441 and 82 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and reduced by 276 days of Applicant delay.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred forty-seven (1247)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,068 B2

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Bosch et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1095 days

Delete the phrase "by 1095 days" and insert – by 1247 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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KELLEY DRYE & WARREN
101 PARK AVENUE
NEW YORK NY 10178

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JUL 1 4 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
John J. Dwyer et al	:	
Application No. 09/190,536	:	
Filed: November 12, 1998	:	
Attorney Docket No. B653-024	:	

This is a decision on the petition, filed July 13, 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 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[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).

The examiner of Technology Center AU 2645 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

cc:
KELLEY DRYE & WARREN, LLP
333 WEST WACKER DRIVE, SUITE 2600
CHICAGO, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 10

HENRY E. BARTONY JR.
LAW & FINANCE BUILDING, SUITE 1801
429 FOURTH AVENUE
PITTSBURGH, PA 15219

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MAR 29 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Christopher Macroglou
Application No. 09/190,788
Filed: November 12, 1998
Attorney Docket No. 97-019 DIV

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 15, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed July 18, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 19, 2000.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on March 15, 2001.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 3700.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 21

ALZA CORPORATION
P O BOX 7210
INTELLECTUAL PROPERTY DEPARTMENT
MOUNTAIN VIEW, CA 94039-7210

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Cormier et al.	:	
Application No. 09/190,887	:	ON PETITION
Filed: November 12, 1998	:	
Attorney Docket No. ARC 2589 US CIP1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 10, 2005, 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 February 4, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 5, 2002. A Notice of Abandonment was mailed October 7, 2002.

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.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). The amendment submitted to the examiner on February 10, 2005, failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. An Advisory Action issued by the examiner is enclosed.

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 request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: ALZA CORPORATION
c/o JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA, WH 3221
NEW BRUNSWICK, NJ 08933

Enclosure: Advisory Action

UNITED STATES 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. 27

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Cormier et al.	:	
Application No. 09/190,887	:	ON PETITION
Filed: November 12, 1998	:	
Attorney Docket No. ARC 2589 USCIP1	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed August 4, 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 filed with the instant petition.

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

Paper No. 21

Michael B. Einschlag MS 2634
Legal Affairs Dept
Applied Materials Inc.
3050 Bowers Avenue
Santa Clara, CA 95054

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JUL 18 2001

OFFICE OF PETITIONS

In re Application of :
Chau Nguyen, et al. :
Application No. 09/190,961 : ON PETITION
Filed: November 12, 1998 :
Attorney Docket No. AM-888/T-020 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 5, 2000, which set a shortened statutory period for reply of three (3) months. Three (3) months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 6, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Roger T. Barrett appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is

authorized to represent the particular party in whose behalf he acts. However, if Robert T. Barrett desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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 1700 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Cheryl Baylor

Cheryl Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Marianne Morgan

Marianne Morgan
Petitions Examiner

cc: TOWNSEND AND TOWNSEND AND CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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

rvk

Mailed:_____ Paper Number: 30

In re application of :
Chau Nguyen et al : DECISION ON
Serial No. 09/190,961 : PETITION
Filed: November 12, 1998 :
For: LIQUID PHOSPHOROUS PRECURSOR DELIVERY APPARATUS:

This is a response to the PETITION TO WITHDRAW HOLDING ABANDONMENT, filed October 21, 2002. The petition requests that the abandonment, as set forth in the Notice of Abandonment of July 23, 2002, for failure to timely file a proper response to the Office letter mailed January 25, 2002 be withdrawn. The petitioner asserts that the Office letter was not received by the applicants or any authorized representative of the applicants.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is sufficient to establish that the above noted Office letter was not received by petitioner. The evidence provided includes a statement by the petitioner that the Office letter was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Office letter was not received. Also provided are a copy of the Applied Materials' Law Department application docket records and a copy of the attorney firm's application docket records where the Office letter would have been posted had it been timely received.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the examiner for prompt remailing of the Office letter to the correspondence address and restarting of the statutory period of response from the remail date thereof.

The Petition is **GRANTED**.

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

MICHAEL B EINSCHLAG MS 2634
LEGAL AFFAIRS DEPT
APPLIED MATERIAL INC
3050 BOWERS AVENUE
SANTA CLARA, CA 95054

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)
6310618	2001-10-30	09190966	1998-11-13	SAI-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	/Edward S. Mao/	Date (YYYY-MM-DD)	2009-12-07
Name	Edward S. Mao	Registration Number	40713

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6310618
Issue Date: October 30,2001
Application No. 09190966
Filed: November 13,1998
Attorney Docket No. SAI-001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 7,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 7,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MAY - 2 2005

KILPATRICK STOCKTON LLP
607 14th Street, N.W.
Suite 900
Washington, DC 20005

#30

In re Application of
Chris T. Paltenghe et al
Application No. 09/190,993
Filed: November 12, 1998
For: VIRTUAL WALLET SYSTEM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in applicant's facsimile dated February 18, 2005. The facsimile is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED** in view of the following evidence of timely filing :

☒ Postcard receipt being dated March 22, 2004.

☐ 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 _____ 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 _____.

☐ Originally sent response, filed _____, with a Certificate of Mailing dated has been found in the application.

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.

SNM/jwk: 4/28/05

STEVEN N. MEYERS
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 22

Noreen A. Krall
IBM Corporation
Intellectual Property Law
5600 Cottle Road (L2PA/0142)
San Jose, CA 95193

COPY MAILED

SEP 1 2 2003

OFFICE OF PETITIONS

In re Application of :
Case et al. :
Application No. 09/191,256 : ON PETITION
Filed: November 12, 1998 :
Attorney Docket No. SA9-98-160 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed December 18, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on March 19, 2003.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Brian C. Kunzler appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Brian C. Kunzler desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 2154.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Brian C. Kunzler
10 West 100 South
Suite 450
Salt Lake City, UT 84101

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. 6294307
Issue Date: September 25,2001
Application No. 09191373
Filed: November 13,1998
Attorney Docket No. 175-207P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 15,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 15,2009 .
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)
6294307	2001-09-25	09191373	1998-11-13	181.001

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	/Mitchell A. Smolow/	Date (YYYY-MM-DD)	2009-10-15
Name	Mitchell A. Smolow	Registration Number	43140

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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)
6101784	2000-08-15	09191589	1998-11-13	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Janine A. Moderson/	Date (YYYY-MM-DD)	2009-04-22
Name	Janine A. Moderson	Registration Number	50981

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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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. 6101784
Issue Date: August 15,2000
Application No. 09191589
Filed: November 13,1998
Attorney Docket No. 239-P002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 22,2009 ,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 April 22,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 7

MOSER PATTERSON & SHERIDAN LLP
595 SHREWSBURY AVENUE, SUITE 100
SHREWSBURY, NJ 07702

COPY MAILED

FEB 1 2 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Brij Bhushan Garg et al :
Application No. 09/191,708 :
Filed: November 13, 1998 :
Attorney Docket No. GARG 2-3 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 29, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The Associate Power of Attorney received on December 14, 2001 was improperly treated in the notices mailed December 18, 2001 as a revocation of the principal attorneys of record and appointment of a new principal attorney. Accordingly, the notices mailed December 18, 2001 are vacated. The Associate Power of Attorney filed December 14, 2001 is accepted and has been made of record. All future communications regarding this file will be forwarded to the address noted in the communication of December 14, 2001 (the address noted above).

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

The application file is being forwarded to Technology Center AU 2662 for appropriate consideration of the concurrently filed amendment..

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,214,012	2001-04-10	09/191,915	1998-11-13	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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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

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	/Seungwon Baek/	Date (YYYY-MM-DD)	2009-09-02
Name	Seungwon Baek		
Enter Reel and Frame Number		Remove	
Reel Number	020690	Frame Number	0300
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6214012
Issue Date: April 10,2001
Application No. 09191915
Filed: November 13,1998
Attorney Docket No. 29763.0100

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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. 8

RAYMOND J WERNER
BLAKELY SOKOLOFF TAYLOR &
ZAFMAN
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGELES , CA 90025

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Chiang et al.
Application No. 09/191,930
Filed: November 13, 1998
Attorney Docket Number:
42390.P6459

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 4, 2001, to revive the above-identified application.

This above-identified application became abandoned for failure to timely and properly reply to the non-final Office Action mailed August 29, 2000, which set a shortened statutory period for reply of one month. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, the above identified application became abandoned on September 30, 2000. A Notice of Abandonment was subsequently mailed on April 24, 2001.

Having found that all 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 forwarded to Technology Center 2800 for processing of the Response to Restriction Requirement.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014.

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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 27

LAW OFFICES OF PARTICK J.S. INOUYE
810 THIRD AVENUE
SUITE 258
SEATTLE, WA 98104

COPY MAILED
JUN 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Klotz, Jr., et al.	:	
Application No. 09/192,014	:	ON PETITION
Filed : November 13, 1998	:	
Attorney Docket Number:	:	
D/98703	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 6, 2005, 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 July 2, 2003. The Notice set a shortened statutory period for reply of three (3) months from the mail date of the Notice, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed an appealed to the Board of Patent Appeals and Interferences, which affirmed the Examiner in a Decision mailed May 16, 2005. Proceedings in the application were terminated, and because the period for seeking court review of the Board's decision has expired, and because no claims were allowed, the application stands abandoned. A Notice of Abandonment was mailed on August 2, 2005.

With the instant petition Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment with the RCE.

Having found that all of the requirements for a grantable petition under 37 CFR 1.137(b) have been met, **this petition is hereby granted.** *See*, 37 CFR 1.198 and MPEP 1214.07.

This application is being returned to Technology Center 2176 for processing of the RCE and Amendment.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6096964
Issue Date: August 1,2000
Application No. 09192097
Filed: November 13,1998
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.

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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)
6,096,964	2000-08-01	09/192,097	1998-11-13	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/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

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. 6096965
Issue Date: August 1,2000
Application No. 09192098
Filed: November 13,1998
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.

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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)
6,096,965	2000-08-01	09/192,098	1998-11-13	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/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.**

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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.

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6169450
Issue Date: January 2,2001
Application No. 09192112
Filed: November 13,1998
Attorney Docket No. 07289/016001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 4,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 4,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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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)
6169450	2001-01-02	09192112	1998-11-13	0111958.00128US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE 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	/Monica Grewal/	Date (YYYY-MM-DD)	2009-03-04
Name	Monica Grewal	Registration Number	40056

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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.

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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
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 8

MAIL

AUG 1 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HEWLETT PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTATION
3404 E HARMONY ROAD
P.O. BOX 272400
FORT COLLINS CO 80528-9599

In re Application of:
Anderson et al.
Application No. 09/192,547
Filed: November 15, 1998
For: **PRIVATE ARBITRATED LOOP SELF-TEST MANAGEMENT FOR A FIBRE CHANNEL STORAGE ENCLOSURE**

DECISION
ON PETITION

This is a decision on the Petition filed July 7, 2003, which is being treated under 37 C.F.R. § 1.8 to withdraw the holding of abandonment. No fee is required.

A Notice of Abandonment was mailed June 3, 2003 for failure to timely respond to the non-final Office action mailed June 5, 2001.

Petitioner alleges to have timely submitted a response to the Office action. In support, the Petitioner has provided a copy of a date-stamped return postcard acknowledging receipt of the response in the U.S. Patent and Trademark Office on September 10, 2001. Petitioner has submitted a copy of the response with the petition.

The original response is not of record in the file and cannot be located. However, M.P.E.P. 503 states, " [a] post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the amendment was received in the Office but was not matched with the application file.

The date stamped on the post-card, September 10, 2001, is beyond the due date for the response. However, under 37 CFR 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 CFR 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 CFR 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 correspondence documents bear a proper certificate of mailing with a deposit date of September 5, 2001 in compliance with the requirements of 37 CFR 1.8(a)(1) as set forth above. Accordingly, the Notice of Abandonment is hereby vacated and the Holding of Abandonment withdrawn.

For the reasons above, the petition is **GRANTED**.

The application file is being forwarded to the Technology Center's technical support staff for entry of the copy of the response. From there, the file will be forwarded to the examiner for further action in due course.

Jin F. Ng, 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

RICHARD W. ELLIS
W. L. GORE & ASSOCIATES, INC.
551 PAPER MILL ROAD
P.O. BOX 9206
NEWARK, DE 19714-9206

COPY MAILED

APR 25 2006

OFFICE OF PETITIONS

In re Patent No. 6,088,894 :
Issued: July 18, 2000 :
Application No. 09/192,600 : ON PETITION
Filed: November 17, 1998 :
Attorney Docket No. TTR-10.DIV :

This is in response to the paper filed March 28, 2006 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the March 28, 2006 request, status as a Small Entity has been removed.

Additionally, there is no indication that petitioner herein was ever empowered to handle matters related to this patent. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney documentation must be submitted. If the new power of attorney and/or change of address is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). A copy of this decision will be mailed to petitioner, however, all future correspondence will be mailed solely to the correspondence address of record. 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.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
MICHAEL DE ANGELI
60 INTREPID LANE
JAMESTOWN, RI 02835

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS
AND TRADEMARKS
Washington, D.C. 20231

Paper No. 10

MAUREEN STRETCH
26 CHARLES STREET
NATICK , MA 01760

Mailed

JAN 6 2000

Director's Office
Group 2700

In re Application of
Jeffrey Conklin, et al.
Application No.: 09/192,735
Filed: November 16, 1998
For: ITERATIVE, MULTIVARIATE NEGOTIATIONS OVER A NETWORK

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the request for Reconsideration of Petition to Make Special, filed November 17, 1999.

The petition now meets all requirements.

For the above stated reasons, the petition is **GRANTED.**.

The application file will be forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he or she should make a rigid search for such, he or she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he or she should consider such application simultaneously with this application and should state in the official letter of such application that he or she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2700
Communications & Information Processing
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUL 26 2005

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of	:
Tetsuji Sudoh et al	:
Serial No.: 08/192,800	: PETITION DECISION
Filed: February 7, 1994	:
Attorney Docket No.: 1473063US	:

This is in response to the petition under 37 CFR 1.181, filed May 31, 2005, requesting withdrawal of abandonment based on a timely reply

BACKGROUND.

A review of the file history shows that the examiner mailed an Office action to applicant on June 2, 2004, setting a three month shortened statutory period for reply. The Office action summary sheet indicated the action to be a Final Office action, however, the text of the Office action did not confirm this status. Applicants conferred with the examiner by telephone to confirm that the Office action was a non-Final action. Applicants replied on September 2, 2004. The examiner mailed an Advisory action to applicants on September 16, 2004. Applicants again conferred with the examiner as to the status of the last Office action and were assured it was a non-Final action and the amendment proper. The examiner mailed a Notice of Abandonment to applicants on May 2, 2005. Applicants filed this petition requesting withdrawal of the abandonment in view of the Office action inconsistency and the examiner's assurances that the action was a non-Final action. In view of the evidence presented it is concluded that the Notice of Abandonment was mailed in error and is withdrawn with the mailing of this petition decision.

The petition is **GRANTED**.

The Office action of June 2, 2004, is determined to be a non-Final Office action and the amendment filed September 2, 2004, will be entered and the application will be forwarded to the examiner for further consideration.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6153856
Issue Date: November 28,2000
Application No. 09192957
Filed: November 16,1998
Attorney Docket No. PD1028

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 15,2009 ,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 April 15,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6153856	2000-11-28	09192957	1998-11-16	2013-3-02

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Harry S. Lee/	Date (YYYY-MM-DD)	2009-04-15
Name	Harry S. Lee	Registration Number	56814

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204-2079

COPY MAILED
JUN 05 2006
OFFICE OF PETITIONS

In re Patent No. 6,987,856	:	
Issue Date: January 17, 2006	:	
Application No. 09/193,058	:	NOTICE
Filed: November 16, 1998	:	
Attorney Docket No. 22010-127	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

236/038
Patent

OIPE JC25
JAN 10 2000
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Michael Nerenberg et al.	)	Group Art Unit: 1653
Serial No.:	09/193,291	)	Examiner: A. Pawul
Filed:	November 17, 1998	)	
For:	TOPOISOMERASE TYPE II GENE POLYMORPHISMS AND THEIR USE IN IDENTIFYING DRUG RESISTANCE AND PATHOGENIC STRAINS OF MICROORGANISMS	)	

RESPONSE TO COMMUNICATION

JAN 12 2000
TECH CENTER 1600/2900

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Responsive to the Communication mailed December 20, 1999, Applicants submit herewith the "Sequence Listing" in paper copy and in computer readable form as required under § 1.824 (a).

The Sequence Listing is provided in ASCII text on the accompanying diskette and the Statement Under 37 C.F. R. § 1.821 (f) is also provided. A copy of the Notice to Comply is attached to this Response.

CERTIFICATE OF MAILING
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any 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 the Assistant Commissioner for Patents, Washington, D.C. 20231.

Sarah B. Navarro
Name of Person Mailing Paper

January 4, 2000
Date of Deposit

Sarah B. Navarro
Signature of Person Mailing Paper

SD-142228.1

Please amend the specification by entering the enclosed Sequence Listing. The Sequence Listing was generated from Figures 6-9, 10A-10C and 11-13, and does not constitute new matter.

No fee is believed due in connection with this filing but if any fee is required, please charge our Deposit Account No. 12-2475 for the appropriate amount.

Respectfully submitted,

LYON & LYON LLP

Dated: January 3, 2000

By: _____
Douglas C. Murdock
Registration No. 37,549

633 West Fifth Street, Suite 4700
Los Angeles, California 90071-2066
Telephone: (858) 552-8400
Facsimile: (213) 955-0440

Application No.: 09/193,291

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

OIPE JC25
JAN 10 2000
PATENT & TRADEMARK OFFICE

- [ ] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [ ] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [X] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: _____

Applicant Must Provide:

JAN 12 2000
TECH CENTER 1600/2900

- [X] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [ ] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support (SIRA)
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE

OIPE JC122
JUN 30 2000
PATENT & TRADEMARK OFFICE

Application No.: 09/ 193,291

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [ ] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [x] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: _____

Applicant Must Provide:

- [x] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [ ] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [x] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
For PatentIn software help, call (703) 308-6856

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE

OIPE JC83
JUL 03 2000

Application No.: 09/ 193,291

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [ ] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- [ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [x] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: _____

Applicant Must Provide:

- [x] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [ ] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [x] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
For PatentIn software help, call (703) 308-6856

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE

Application No.: 09/193,291

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

OCT 19 2...

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

OCT 06 2000

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- [X] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- [ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- [ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- [X] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- [ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- [ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- [ ] 7. Other: _____

Applicant Must Provide:

- [X] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- [X] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- [X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY

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SEAGATE TECHNOLOGY LLC C/O WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

COPY MAILED

JUL 06 2007

OFFICE OF PETITIONS

In re Patent No. 6,317,800
Issue Date: November 13, 2001
Application No. 09/193,482
Filed: November 17, 1998
Attorney Docket No. 934.008US1

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed March 08, 2007, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 13, 2005 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The patent file is being forwarded to Files Repository.

David Bucci
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
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In re Patent No. 6259977
Issue Date: July 10,2001
Application No. 09193572
Filed: November 17,1998
Attorney Docket No. 800328

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 18,2009 ,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 August 18,2009 . 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)
6259977	2001-07-10	09/193,572	1998-11-17	

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

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	/Thomas Mayer/	Date (YYYY-MM-DD)	2009-08-18
Name	Thomas J. Mayer		
Enter Reel and Frame Number		Remove	
Reel Number	010343	Frame Number	0670
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6270885
Issue Date: August 7,2001
Application No. 09193730
Filed: November 17,1998
Attorney Docket No. 016872-0150

:
: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 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 14,2010 .
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)
6270885	2001-08-07	09193730	1998-11-17	ID0018610

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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 J. Kasper/	Date (YYYY-MM-DD)	2010-05-14
Name	Alan J. Kasper	Registration Number	25426

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6263279
Issue Date: July 17,2001
Application No. 09193762
Filed: November 17,1998
Attorney Docket No. 4525/002C

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 26,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 26,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6263279	2001-07-17	09193762	1998-11-17	Uplink

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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 W. Holland/	Date (YYYY-MM-DD)	2009-08-26
Name	Robert W. Holland	Registration Number	40020

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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RALPH E. JOCKE
walker & jocke LPA
231 SOUTH BROADWAY
MEDINA OH 44256

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of
Drummond et al.
Application No. 09/193,787
Filed: November 17, 1998
Attorney Docket No. D-1077+1
For: AUTOMATED BANKING MACHINE
APPARATUS AND SYSTEM

DECISION ON PETITION

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term modification entitled "Request for Patent Term Review," received on June 29, 2009. The request is being treated as a petition for corrected patent term extension under 37 CFR 1.701 and 37 CFR 1.181, a request for reconsideration of the patent term adjustment under 37 CFR 1.705 and a petition under 37 CFR 1.182 as Petitioner has argued patent term adjustment provisions and other provisions.

The petition under 37 CFR 1.181 is dismissed.

The request under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.182 is dismissed.

Petitioner notes that the Notice of Allowance mailed on April 30, 2009, for the above-identified application did not contain an indication of patent term modification under 35 U.S.C. § 154(b). Petitioner contends that the instant application is entitled to at least six years (2,190 days) of patent term modification.

Petitioner asserts that the patent is entitled to patent term adjustment based on the Patent term Guarantee Act of 1999. Petitioner asserts that 37 CFR 1.702 applies to applications "filed" on or after May 29, 2000 and since the application was pending and had a filing date when the legislation went into effect, that the patent is entitled to patent term adjustment under the patent term adjustment provisions.

Petitioner asserts that the application is not subject to a terminal disclaimer that expressly states an expiration date, thus the patent will not be subject to a terminal disclaimer under the provisions of 35 U.S.C. 154(b)(2)(B). Additionally, Petitioner asserts that there were no circumstances where applicant failed to engage in reasonable efforts to conclude processing the present application.

Petitioner asserts that for the purposes of 37 CFR 1.702, the present application was filed on May 29, 2000, and three years after this date is May 29, 2003. As a result, Petitioner asserts the application is entitled to at least six years of patent term modification.

Petitioner asserts regardless of the decision for patent term modification (adjustment and/or extension), applicant should be entitled to additional patent term under 37 CFR 1.182 (or another pertinent rule) due to the extraordinary length of prosecution history. Petitioner asserts that prosecution was improperly reopened many times both with many non-final office actions and reopening of prosecution after submission of the appeal brief.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154 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).

The above-identified application was filed on November 17, 1998. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute. The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Petitioner's assertion that the application is eligible for patent term extension provisions pursuant to 35 U.S.C. 154 and 37 CFR 1.701 is not persuasive. While the application was issued pursuant to an adverse determination of patentability by the BPAI, which may make it eligible for patent term extension under 35 U.S.C. § 154, the application is subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct.

The statute states that a "patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review" and the patent that is to be issued is subject to a terminal disclaimer, see 35 U.S.C. 154(b)(2), 37 CFR 1.701(a)(3) and *Changes to Implement 20-Year Patent Term and Provisional Applications,* 60 FR 20195 (April 25,1995).

Petitioner's assertion that the application is eligible for patent term adjustment provisions pursuant to 35 U.S.C. 154 and 37 CFR 1.702 -1.705 because the application was still pending when the legislation became effective is not persuasive. The effective date provision (§ 4405) in the legislation clearly states that the amendments to 35 U.S.C. § 154 apply to applications filed on or after the date that is 6 months after the date of enactment, i.e., May 29, 2000. This provision does not include applications that were filed prior to the date of enactment or even immediately after the date of enactment, but applications that were filed on or after the date that is 6 months after the date of enactment, see *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 FR 56366 (Sept. 18, 2000) 1239 Off Gaz. Pat. Office Notices 14 (Oct. 3, 2000). [1]

Petitioner's assertion that the application is eligible for additional patent term under 37 CFR 1.182 due to the extraordinary length of the prosecution history is not persuasive. The delay in the allowance and issuance is regrettable, but the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b).

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. See 35 U.S.C. § 41 (a)(7). The required $200 fee for the petition under 37 CFR 1.705(b) and $400 fee for the petition under 37 CFR 1.182 petition has been charged to Deposit Account 09-0428.

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

[1] Sykes v. Dudas, 573 F.Supp 2d 191, 89 USPQ2d 1423 (D.D.C.2008).

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Walker & Jocke
a legal professional association

Ralph E. Jocke
Patent
&
Trademark Law

June 29, 2009

10/21/2009 CKHLOK 00000012 090428 09193787
01 FC:1462 400.00 DA
02 FC:1455 200.00 DA

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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Re:	**Application No.:**	**09/193,787**
	Confirmation No.:	**2446**
	Applicants:	**Jay Paul Drummond, et al.**
	Filed:	**November 17, 1998**
	Title:	**Automated Banking Machine Apparatus and System**
	Art Unit:	**3685**
	Notice of Allowance Date:	**April 30, 2009**
	Docket No.:	**D-1077+1**

Sir:

Please find enclosed the Issue Fee Transmittal form for filing. Also enclosed are a Request for Patent Term Review, "Comments on the Statement of Reasons for Allowance," and "Comments on the Substance of Interviews."

If necessary, please charge the appropriate Patent Term Review fee required (either 37 CFR 1.17(h) or 37 CFR 1.18(e)), and any other fee due, to Deposit Account 09-0428.

Very truly yours,

Ralph E. Jocke
Reg. No. 31,029

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that this document and the documents indicated as enclosed herewith are being deposited with the U.S. Postal Service as Express Mail Post Office to addressee in an envelope addressed to Mail Stop ISSUE FEE, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 this day 29 of June 2009.

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Ralph E. Jocke

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231 South Broadway, Medina, Ohio U.S.A. 44256-2601

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WASHINGTON, DC 20231
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MAY 28 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Paper No. 8

H.B. FULLER COMPANY
PATENT DEPARTMENT
1200 WILLOW LAKE BOULEVARD
BOX 64683
ST PAUL MN 55164-0683

In re Application of: G. Mueller et al.
Application No. 09/193,889
Filed: November 18, 1998
For: MOISTURE ACTIVATED REINFORCEMENT STRING AND TEAR OPENING TAPES FOR CORRUGATED AND CARTONSTOCK CONTAINERS

DECISION ON PETITION UNDER 37 CFR §1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition, filed January 16, 2002, under 37 C.F.R. §1.181 requesting the holding of abandonment be withdrawn in the above-identified application.

This petition is **DISMISSED**.

This application was held abandoned for failure to timely file a proper reply to the Office action mailed November 16, 2000 (Paper No. 4). A Notice of Abandonment was mailed November 7, 2001 (Paper No. 6).

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a copy of a certificate of transmission by facsimile, a copy of the response, a petition for a one month extension of time. The copy of the certificate of transmission by facsimile, the copy of the response and the copy of the petition each bear the date of March 16, 2001.

However, applicant's request is deficient in that this application went abandoned prior to the above mentioned Notice of Abandonment. An Office action was mailed March 27, 2000 to the HB Fuller Company, Patent Department, 1200 Willow Lake Blvd, St. Paul MN 55110-5101. A change of address was filed July 6, 2000, more than three months after the Office action was mailed. The new address differed from the previous address only by adding a box number and changing the zip code. The Office action was then remailed on November 16, 2000. The mailing address on this communication was the previous address, not the address appearing in the change of address of July 6, 2000. The copy of the response submitted states that it is in reply to the action of November 16, 2000, indicating that applicant received that action.

Initially, applicant has not asserted or shown that either of the above mentioned Office actions was *not* received. Further, the remailing took place more than 6 months *after* the mailing of the Office action of March 27, 2000. There are no communications of record from applicant between March 27, 2000 and the date of remailing on November 16, 2000 other than the change of address. As the statutory period for response to the Office action of March 27, 2000 had expired before November 16, 2000, the application was abandoned prior to the remailing. As there is no authority for remailing an Office action in an abandoned case outside a granted petition under 37 C.F.R. §1.137 to revive the application, petitioner's assertions related to filing a response on March 16, 2001 have no impact on the status of the case.

Accordingly, the petition is **DISMISSED**. This application remains abandoned. If the petitioner desires further review of this decision, applicant should file a Request for Reconsideration within TWO MONTHS of the mailing date of this decision. Alternatively, applicant may wish to consider filing a petition under 37 C.F.R. §1.137 to revive the application.

John J. Love, Director
Technology Center 2100
Computer Architecture, Software,
& Electronic Commerce

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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OCT 01 2002 #10

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

H. B. Fuller Company
Patent Department
1200 Willow Lake Boulevard
Box 64683
St.Paul, MN 55164-0683

In re Application of :
Greg S. Mueller et al. : DECISION ON PETITION
Application No. 09/193,889 : TO WITHDRAW THE
Filed: November 18, 1998 : HOLDING OF ABANDONMENT
For: MOISTURE ACTIVATED REINFORCEMENT STRING AND TEAR OPENING TAPES FOR CORRUGATED AND CARTONSTOCK CONTAINERS

This is in response to applicant's renewed petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO), on July 26, 2002. There is no fee for this petition.

The petition is **DISMISSED.**

A review of the file record reveals that a non-final Office action was mailed to the applicant on March 27, 2000. Since no response to the March 27, 2000 Office communication was timely filed, the application was held abandoned, and a notice to that effect mailed November 7, 2001. Although the Notice of Abandonment indicated that the application became abandoned for failure to timely respond to the Office action of November 16, 2000, this was in error. The application was already abandoned as of November 16, 2000, and thus no redating of the Office action absent a petition to restore the application to pending status could be made. The Office action mailed November 16, 2000 was thus nothing more than a courtesy copy for applicant's records.

A further review of the file reveals that the Office action of March 27, 2000 was mailed to the correct address of record; 1200 Willow Lake Blvd., St Paul, MN 55110-5101, which is the address given in the original declaration filed with the application. A change of address was filed in this case on July 6, 2000, changing the correspondence address to: 1200 Willow Lake Blvd., Box 64683, St. Paul, MN 55164-0683. Because this address change was not made until after the mailing of the Office action of March 27, 2000, the action was properly mailed to the correspondence address of record at that time. Because there was no error on the part of the Office in mailing the March 27, 2000 Office action, there was no grounds to redate and remail the Office action upon receipt of the change in correspondence address.

Applicant's petition indicates that "in September 1996, H.B. Fuller changed it's mailing address from the street address to a post office box address...". Applicant also states that "by November 16th the Post Office had agreed to deliver mail that was addressed to the H.B. Fuller street address". The MPEP 601.03 states,

> "Where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP code)..."
>
> "The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record."

Because the applicant apparently filed the application with a correspondence address that had changed as of September 1996 and that the post office was not delivering to until November of 2000, there was no apparent Patent and Trademark Office error in the mailing of the Office communication and the holding of abandonment will not be withdrawn.

Given that the applicant failed to change the correspondence address it is not surprising that the applicant failed to receive the above-noted Office action. While MPEP 711.03(c) does give an applicant the ability to petition to show that a communication from the Patent Office was not received, this is predicated on the fact that applicant was able to receive mail at the correspondence address. MPEP 711.03(c) also requires an applicant to show that "due care was taken to adhere to the requirement for prompt notification in each concerned application for the change of address". Clearly applicant had a different mailing address since at least September of 1996. Since applicant was apparently not able to receive mail at the address of record, and the Office action of March 27, 2000 was correctly mailed to the address of record, the procedure outlined in 1156 OG 53 is not available to the applicant and the alleged showing of non-receipt of the Office action is not persuasive to withdraw the holding of abandonment in this application.

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 reply was unavoidable. This includes a satisfactory showing that the cause of the delay resulting in failure to reply in a timely fashion to the Office action 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 unavoidable standard is $110. The fee for a petition under the unintentional standard is $1,280. If applicant has, or can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated.

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 Clark Place
Arlington, VA 22202

Telephone inquiries should be directed to the Office of Petitions Staff at (703) 305-9282.

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 1.181."

Please contact me directly for inquiries specific to this decision.

Steven Meyers, Special Program Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

SM: 9/22/02

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 13

Allison Johnson
6016 Logan Avenue South
Minneapolis, MN 55419

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OCT 3 1 2002

OFFICE OF PETITIONS

In re Application of :
Greg S. Mueller et al. :
Application No. 09/193,889 :
Filed: November 18, 1998 :
Attorney Docket No. ER-035-US-01 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 25, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 16, 2000, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, a Notice of abandonment was mailed on November 7, 2001.

This application is being forwarded to Technology Center AU 1774 for further processing.

Telephone inquiries regarding this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 26

MORRISON LAW FIRM
145 NORTH FIFTH AVENUE
MOUNT VERNON, NY 10550

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tetsuya Atsumi et al. :
Application No. 09/193,928 :
Filed: November 17, 1998 :
Attorney Docket No. M2009-9 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 28, 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 November 29, 2001.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on March 14, 2002.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 3700 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 13

ROBERT H. MONTGOMERY
36 SPORTSMAN'S HILL ROAD
MADISON, CT 06443

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OFFICE OF PETITIONS

In re Application of :
John Rexroad :
Application No. 09/193,989 : ON PETITION
Filed: November 18, 1998 :
Attorney Docket No. CUPI-15 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 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 October 12, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 13, 2001.

The Revocation of Power of Attorney or Authorization of Agent filed on April 26, 2002 is accepted and made of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1771.

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
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Mailed: JAN 19 2005

BC
Paper Number _____

In re application of
John Rexroad .
Serial No. 09/193,989
Filed: November 18, 1998
For: SHRINKING NET AND SYSTEM

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a), filed January 8, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed on December 17, 2003, for failure to timely file a proper reply to the Office letter mailed May 6, 2003 be withdrawn since applicants did timely file a reply on November 3, 2003 as indicated by the Certificate of Mailing, and further evidenced by a copy of the Return Postcard identifying the papers filed (Office Action Response (5 Pages); Fee Transmittal; Petition for Extension of Time; Check information; and Itemized Certificate of Mailing), and showing the USPTO receipt stamp dated November 6, 2003. (A copy of the reply is attached to the instant petition as well as a copy of the USPTO date stamped postcard receipt.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's reply was properly filed on November 3, 2003 as evidenced by the Certificate of Mailing and stamped Return Postcard. Moreover, the extension of time fees sent with the reply on November 3, 2003 was credited to this application on November 7, 2003 in RAM. Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed May 6, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for entry, processing and consideration of the reply originally filed on November 3, 2003 as indicated by applicant.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Lance C. Venable
Ellis & Venable, PC
101 North First Ave.
Suite 1875
Phoenix, AZ 85003

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 20

Hans Poisel
Puhlhof 14
D-91227
Leinburg, Germany

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MAR 1 2 2003

OFFICE OF PETITIONS

In re Application of
Hans Poisel
Application No. 09/194,049
Filed: May 6, 1999
Attorney Docket No. 1384.1006/JD

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the final Office action mailed March 9, 2001. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the above-identified application became abandoned on June 10, 2001.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Wesley W. Whitmyer, Jr. appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Wesley W. Whitmyer Jr. desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on January 21, 2003.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center AU 3662 for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

cc: Todd M. Oberdick
ST. Onge Steward Johnston & Reens
986 Bedford Street
Stamford, CT 06905-5619

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St. Onge Steward Johnston & Reens LLC
986 Bedford Street
Stamford CT 06905

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MAY 21 2007

OFFICE OF PETITIONS

In re Application of
Poisel
Application No. 09/194,049
Filed: May 6, 1999
Attorney Docket: 1384.1006/JD
Title of Invention: Device For Receiving Optical Signals with a Light Guide

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action which was mailed on March 31, 2003. The non-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 1, 2003. A Notice of Abandonment was mailed on October 2, 2003.

Petitioner asserts that the non-final Office action on March 31, 2003 was never received. A review of the record indicates the non-final Office action was mailed to an incorrect correspondence address. A change of correspondence address and statement under 37 CFR 3.73(b) was received in the Office on March 29, 2002. However the change of correspondence address was not entered. Thus the non-final Office action was improperly mailed.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

This application is being forwarded to Art Unit 3663 for re-mailing of the non-final Office Action to the correspondence address of record. The extendable three month time period for reply will be set to run from the mailing date of the new Office Communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DEC 15 2000

Carol Marmo
BAYER CORP.
Patent Department
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of SCHALLNER et al Application No.: 09/194,261 PCT No.: PCT/EP97/02520 Int. Filing Date: 16 May 1997 Priority Date: 30 May 1996 Attorney Docket No.: M0-4908/LeA 31,803 For: SUBSTITUTED SULFONYLAMINO(THIO)CARBONYL COMPOUNDS ...	DECISION ON RENEWED PETITION UNDER 37 CFR 1.182

This decision is in response to the "Reconsideration of Petition Filed Under 37 CFR 1.182" filed 12 September 2000.

BACKGROUND

On 22 June 2000, a decision was mailed dismissing applicants' petition under 37 CFR 1.182 requesting a name change of one of the inventors. A two-month extendable period for reply was set therein.

On 12 September 2000, applicants filed the present renewed petition accompanied by an affidavit by Peter Wolfrum and petition/fee for a one-month extension of time. As authorized therein, the one-month extension fee of $110 has been charged to deposit account no. 13-3848.

DISCUSSION

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

As indicated in the prior decision, the petition fee has been paid.

With regards to item (2), the present petition is accompanied by an affidavit signed by Mr. Wolfrum with both names setting forth the procedure whereby the change of name was effected.

Deposit account no. 13-3848 has been charged $130 for the late submission of the declaration pursuant to 37 CFR 1.492(e), as authorized in the 02 November 1999 petition.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED**.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the present application, including according the application a 35 U.S.C. 371(c) date of **13 May 1999.**

Boris Milef
Legal Examiner
PCT Legal Office

Telephone: (703) 308-3659
Facsimile: (703) 308-6459

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

JUN 22 2000

Carol Marmo
BAYER CORPORATION
Patent Department
100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of
Otto SCHALLNER et al.
Application No.: 09/194,261
PCT No.: PCT/EP97/02520
Int. Filing Date: 16 May 1997
Priority Date: 30 May 1996
Attorney's Docket No.: M0-4908/LeA 31,803
For: SUBSTITUTED SULFONYLAMINO(THIO) CARBONYL COMPOUNDS AND THEIR USE AS HERBICIDES

DECISION ON

PETITION

UNDER 37 CFR 1.182

This is in response to the "Petition Under 37 CFR 1.182" filed 02 November 1999 requesting an inventor's change of name from Peter Andres to Peter Wolfrum.

BACKGROUND

On 16 May 1997, applicants filed international application PCT/EP97/02520, claiming priority of German application 196 21 685.0, filed 30 May 1996. A Demand of international preliminary examination, in which the United States was elected, was timely filed 16 September 1997. Accordingly, the thirty month period for paying the basic national fee in the United States, in accordance with 37 CFR 1.495(b), expired at midnight on 30 November 1998.

On 24 November 1998, applicants filed a Transmittal Letter (Form PTO-1390) for entry into the national stage in the United States, which was accompanied by, *inter alia*, the requisite basic national fee.

On 13 May 1999, applicants filed an executed Combined Declaration and Power of Attorney along with the requisite fee for filing the declaration later than thirty months from the priority date.

On 03 September 1999, the United States Patent and Trademark Office (PTO) mailed applicants a "Notification of Missing Requirements Under 35 U.S.C. 371 in the United States

Designated/Elected Office (DO/EO/US)" (Form PCT/DO/EO/905) and a "Notification of a Defective Oath or Declaration" (Form PCT/DO/EO/917) which indicated that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) was required because the inventor Peter Wolfrum was not identified on the international application.

On 02 November 1999, applicant filed a petition under 1.182 to change the name of Peter Andres to Peter Wolfrum. The petition included a two month extension of time, a statement of facts concerning the name change of Peter Andres, and a copy (and translation) of the Certificate from the Registry Office in Germany recording the name change.

DISCUSSION

MPEP section 605.04(c) states, in part, the following:

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. . . . The petition must include an appropriate petition fee and an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

The petition included authorization to charge a Deposit Account for the appropriate petition fee of $130.00.

The petition submits supporting documentation in the form of a Certificate from the Registry Office in Germany which states that as of 16 December 1997, Peter Andres is using the name Wolfrum as his surname. The Certificate from the Registry Office in Germany is not acceptable to show a change in the inventor's name in a national stage filing under 35 U.S.C. 371. As set forth above, an inventor's name may be changed by submitting: 1) an affidavit signed with both names which sets forth the procedure whereby the change of name was effected or 2) a certified copy of the court order changing the name. Applicant has not submitted either form of acceptable documentation. Thus, the requirements of a petition under 37 CFR 1.182 to change an inventor's name have not been satisfied.

CONCLUSION

The petition under 37 CFR 1.182 requesting to change the name of inventor Peter Andres to Peter Wolfrum is DISMISSED without prejudice.

The fee of $130.00 for this petition under 37 CFR 1.182 will be charged to Deposit Account No. 13-3848.

If reconsideration on the merits of this petition is desired, a proper response must be filed within two (2) months from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to properly respond will result in abandonment of the application as to the United States.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Kimberly Jordan
PCT Legal Detailee
PCT Legal Office

Telephone: (703) 308-1315
Facsimile: (703) 308-6459

for Boris Milef
PCT Legal Examiner
PCT Legal Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAILED Paper No. 23

APR 30 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SQUIRE, SANDERS & DEMPSEY L.L.P.
14TH FLOOR
8000 TOWERS CRESCENT
TYSONS CORNER VA 22182

In re Application of:
Jorma Pallonen
Application No. 09/194,297
Filed: November 23, 1998
For: **METHOD FOR DETERMINING THE POSITION OF A MOBILE STATION**

ON PETITION

This is a decision on the petition filed March 7, 2003 and Supplemental Petition filed March 26, 2003, to withdraw the holding of abandonment. The petition is being treated pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was abandoned for failure to respond in a timely manner to an Office action mailed May 8, 2002. A Notice of Abandonment was mailed January 29, 2003.

Petitioner asserts that a proper response was timely filed on August 7, 2002. In support of the petition, petitioner submits a copy of the Response with a certificate of mailing of August 7, 2002. The Response includes a Terminal Disclaimer (T. D.), a check in the amount of $110.00 for the T. D. fee, a transmittal sheet, and a return postcard and a statement which attests on a personal knowledge from Michael T. Wallace date March 26, 2003; and states "the Response is being deposited with the USPS as first class mail by Michael T. Wallace on August 7, 2002."

37 C.F.R. § 1.8(b) states that 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 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 complies with the requirements stated above.

Accordingly, the petition is **GRANTED.**

The Notice of Abandonment mailed January 29, 2003 is hereby vacated and the Holding of Abandonment withdrawn. The application file is being forwarded to the Technology Center's support staff for entry of the response and the Terminal Disclaimer. Thereafter, the application file will be forwarded to the Examiner for further examination and consideration of the T.D.

Allen MacDonald

Allen MacDonald, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 31

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JUL 05 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

DENNIS J. DUPRAY
1801 BELVEDERE STREET
GOLDEN, CO 80401

In re Application of	:	
Dupray et al	:	
Application No. 09/194,367	:	ON PETITION
Filed: November 24, 1998	:	
Attorney Docket No. 1003-PUS	:	

This is a decision on the petition under 37 CFR 1.182, filed April 23, 2001, to change the order of the names of the inventors.

The petition is granted.

This application is being forwarded to Technology Center 3600.

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
Alexandria, VA 22313-1450
www.uspto.gov

DENNIS J. DUPRAY
1801 BELVEDERE STREET
GOLDEN, CO 80401

COPY MAILED

FEB 26 2008

OFFICE OF PETITIONS

In re Application of :
Dennis J. Dupray et al :
Application No. 09/194,367 : ON PETITION
Filed: November 24, 1998 :
Attorney Docket No. 1003-PUS

This is a decision on the petition, filed February 22, 2008 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 11, 2007 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 (571) 272-3210.

This matter is being referred to Technology Center AU 3662 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[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

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09194367	11/14/1998	Dennis Dupray	1003-PUS

EXAMINER
Dao Phan
Art Unit 3662

DATE MAILED:

This is a communication from the examiner in charge of your application
COMMISSIONER OF PATENTS AND TRADEMARKS

The petition filed March 4, 2010 under 37 CFR §1.97(d)(2)(ii) for consideration of an information disclosure statement filed after allowance has been:

[X] GRANTED.

[ ] DENIED.

The petition lacks:

[ ] The required fee under 37 CFR §§1.97(d)(2)(iii) and 1.17(i)(1).

[ ] 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 will not be considered by the examiner.

/Thomas H. Tarcza/

.....

Thomas H. Tarcza
SPE Art Unit 3662
571-272-6979

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. 19

John P. De Luca
DYKEMA GOSSETT PLLC
1300 I Street N.W.
Washington, D.C. 20005

In re Application of LEIJON et al. Application No. 09/194,560 Filed: March 29, 1999 Attorney Docket No. 66291-163-2	: : : : :	DECISION ON PETITION

This is a decision on the petition, filed March 22, 2002 requesting that the prosecution in the above-identified patent application be suspended for a period of six months under 37 C.F.R. § 1.103(a), and an additional six months, pursuant to MPEP § 1002.02(c)9, for a total of twelve months, beginning with the filing of the subject Petition.

Regarding a suspension on request of the applicant, 37 CFR 1.103(a) provides:

> (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
> (1) A showing of good and sufficient cause for suspension of action; and
> (2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office

In the Request, to establish cause, Petitioner states that the claims and issues of the instant application are relevant to the claims and issues in at least U.S. Application No. 08/873,019 which Petitioner ultimately intends to appeal. Further, because the appeal of 08/873,019 will materially affect the prosecution of the instant application, the instant application should be suspended pending the decision on appeal of 08/873,019.

A review of the record indicates that the claims and issues of the instant application **are currently** relevant to the claims and issues in U.S. Application No. 08/873,019. However, since the issues of U.S. Application No. 08/873,019 have not yet been presented on appeal to the Board of

Patent Appeals and Interferences, the Petition is denied as untimely.

The petition is DENIED.

Inquiries regarding this decision should be directed to Richard Seidel at (703) 306-3431.

for Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 22

John P. De Luca
DYKEMA GOSSETT PLLC
1300 I Street N.W.
Washington, D.C. 20005

JUL 17 2002

In re Application of	:	
LEIJON et al.	:	DECISION
Application No.09/194,560	:	ON PETITION
Filed: March 29, 1999	:	
Attorney Docket No. 66291-163-2	:	

This is a decision on the petition, filed March 22, 2002 requesting that the prosecution in the above-identified patent application be suspended for a period of six months under 37 C.F.R. § 1.103(a), and an additional six months, pursuant to MPEP § 1002.02(c)9, for a total of twelve months, beginning with the filing of the subject Petition.

Regarding a suspension on request of the applicant, 37 CFR 1.103(a) provides:

> (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
> (1) A showing of good and sufficient cause for suspension of action; and
> (2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office

In the Request, to establish cause, Petitioner asserts the claims and issues of the instant application are relevant to the claims and issues in at least U.S. Application No. 08/973,019 which Petitioner has appealed. Further, because the appeal of '019 will materially affect the prosecution of the instant application, the instant application should be suspended pending the decision on appeal of '019.

A review of the record indicates the instant application has claims and issues that are relevant to appealed case '019 . The claims in the instant application and appealed case '019 are both directed toward the particular structure of the high voltage cable. Consequently, since the

outcome of appealed case '019 will materially affect prosecution of the instant application, good and sufficient reasons have been demonstrated to warrant suspension of action.

A further review of the record indicates that the petition was filed with the Request For Continued Prosecution Application (CPA) and submission on March 22, 2002. As such, the final rejection dated May 28, 2002, was mailed in error and is hereby VACATED.

For the above reasons, the petition to suspend prosecution is GRANTED for a period of up to twelve (12) months starting from the filing of petition, March 22, 2002.

Inquiries regarding this decision should be directed to Richard Seidel at (703) 306-3431.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

A DOCPHOENIX

BACKFILE DOCUMENT INDEX SHEET

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_____ WFEE _____
Fee Worksheet

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File Wrapper Claim

_____ IIFW _____
File Wrapper Issue Information

_____ SRFW _____
File Wrapper Search Info

outcome of appealed case '019 will materially affect prosecution of the instant application, good and sufficient reasons have been demonstrated to warrant suspension of action.

Accordingly, the petition to suspend prosecution is GRANTED for a period of up to twelve (12) months starting from the filing of petition, June 03, 2002.

Inquiries regarding this decision should be directed to Richard Seidel at (703) 306-3431.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

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19 MAY 2000

John P. DeLuca
WATSON COLE GRINDLE, PLLC
10th Floor
1400 K Street, N.W.
Washington, D.C. 20005-2477

In re Application of	:	
LEIJON et al.	:	
U.S. Application No. 09/194,562	:	
PCT No.: PCT/SE97/00905	:	DECISION
Int. Filing Date: 27 May 1997	:	
Priority Date: 29 May 1996	:	
For: A DEVICE IN THE STATOR OF A ROTATING	:	
ELECTRIC MACHINE AND SUCH A MACHINE	:	

This decision is in response to applicant's facsimile communications filed on 16 December 1999 and "LETTER REGARDING NOTIFICATION OF ABANDONMENT AND RESPONSE DATED 15 MARCH 2000" filed via facsimile on 23 March 2000, which is being treated as a petition under 37 CFR 1.181 to withdraw the Notification of Abandonment (Form PCT/DO/EO/909) mailed by the Office on 13 December 1999 and is **GRANTED** as follows:

No petition fee is required.

The evidence submitted by applicant, consisting of a receipt with a PTO mailroom date stamp of 07 April 1999, which itemizes all the papers filed on said date including a declaration of the inventor for the above identified application, is sufficient to indicate that the declaration of the inventors was in fact received in the Office on 07 April 1999.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage. Accordingly, the Notification of Abandonment of 13 December 1999 was mailed in error and is hereby **VACATED**.

This application will be given an international application filing date of 27 May 1997 and a date of **07 April 1999** under 35 U.S.C. 371 and 102(e).

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Telephone: 703-308-6314
Facsimile: 703-308-6459

ENKEL PROJECT APPLICATION

Special Procedures Apply

A petition decision has been **granted** providing waiver of requirements under 37 CFR 1.98 related to the filing of paper copies in each case. The Decision mailed 12/1/99 and this memo set forth examining guidelines to be followed during the examination process. In summary:

- ✓ The applicant will not be required to file a paper copy of each IDS reference citation in each case. Instead, the applicant will file three sets of copies of each IDS reference citation in the holding case. The first set will remain with the holding case (Serial No. 09/147,325). The second set will be used to populate Digests 13-33 in Class 174 and the third set will be kept as a master set in the EIC (Electronic Information Center). All other Enkel cases will have a copy of the petition decision and the IDS papers without the reference copies. There are almost 700 references in the IDS.

- ✓ Since Digests 13-33 contain all the references contained in the IDS, searching the Digests will be a pertinent field of search as defined in MPEP sec. 904.01(d).

- ✓ Paper copies taken from the search room must be returned **promptly**.

- ✓ Any new references discovered by an examiner and considered pertinent or cited by applicant will be classified in the Digests by classifier John Hanley after approval by a Primary Examiner or SPE.

6/11/02

- ✓ Class 174 Digests 13-33 (paper version) will be located in room **CP4-11C06. This room will also serve as central files for the Enkel cases.** The Digests are expected to be available for automated searching on EAST and WEST in early January.

- ✓ Restriction requirements are discouraged. If one is considered necessary, permission must be obtained from a panel consisting of SPE's Mike Gellner and Nestor Ramirez. This will help assure consistency among the examiners and help us maintain control over classification and assignment of cases.

- ✓ Care should be taken that double patenting rejections are consistent among the relevant cases. In order to provide consistency these rejections must also be cleared by the same panel.

- ✓ To help maintain consistency, all appeal conferences should include Mike Gellner.

- ✓ There will also be an allowance review panel to review all applications before they are passed to issue. This will help maintain consistency in standards of patentability and classification. All patent applications involved in this project will be tagged on PALM. The electronic tag will prevent a Notice of Allowance (NOA) from being mailed before the case is cleared by the panel consisting of SPE's Mike Gellner and Nestor Ramirez. If there is an attempt to mail a NOA in one of these cases, an error message "Send to Special Programs" will be returned. Allowance of any applications should be cleared by the panel before being counted. Although most of the cases are at the beginning stages of prosecution, if you encounter a situation where one of these cases is going to be allowed, please contact Nestor Ramirez or Mike Gellner.

- ✓ You can contact Mike Gellner at 308-1721 and Nestor Ramirez at 308-1371.

DISPATCHING this application to Central Files **28C3**, use this barcode

1034 + 28C3 + SCAN

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

John P. De Luca
DYKEMA GOSSETT PLLC
1300 I Street N.W.
Washington, D.C. 20005

JUN 11 2003

In re Application of	:	
LEIJON	:	DECISION
Application No. 09/194,562	:	ON PETITION
Filed: April 9, 1999	:	
Attorney Docket No. 66291-142-2	:	

This is a decision on the petition, filed May 1, 2003, requesting that the prosecution in the above-identified patent application be suspended for an additional six months beyond the 12 months that prosecution was suspended under 37 C.F.R. § 1.103(a).

Regarding a suspension on request of the applicant, 37 CFR 1.103(a) provides:

> (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
> (1) A showing of good and sufficient cause for suspension of action; and
> (2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office

In the Request, to establish cause, Petitioner asserts the claims and issues of the instant application are relevant to the claims and issues in at least U.S. Application No. 08/973,019 which Petitioner has appealed. Further, because the appeal of '019 will materially affect the prosecution of the instant application, the instant application should be suspended pending the decision on appeal of '019.

A review of the record indicates the instant application has claims and issues that are relevant to appealed case '019 . The claims in the instant application and appealed case '019 are both directed toward the particular structure of the high voltage cable. Consequently, since the

outcome of appealed case '019 will materially affect prosecution of the instant application, good and sufficient reasons have been demonstrated to warrant suspension of action.

Accordingly, the petition to suspend prosecution is GRANTED for a period of up to six (6) months starting from the filing of petition, May 1, 2003.

Inquiries regarding this decision should be directed to Elvin Enad at (703) 308-7619.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 29

John P. De Luca
DYKEMA GOSSETT PLLC
1300 I Street N.W.
Washington, D.C. 20005

NOV - 6 2002

In re Application of	:	
LEIJON et al.	:	DECISION
Application No. 09/194,567	:	ON PETITION
Filed: April 07, 1999	:	
Attorney Docket No. 66291-140 (ABB 8027)	:	

This is a decision on the petition, filed August 30, 2002 requesting that the prosecution in the above-identified patent application be suspended for a period of six months under 37 C.F.R. § 1.103(a), and an additional six months, pursuant to MPEP § 1002.02(c)9, for a total of twelve months, beginning with the filing of the subject Petition.

Regarding a suspension on request of the applicant, 37 CFR 1.103(a) provides:

> (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
> (1) A showing of good and sufficient cause for suspension of action; and
> (2) The fee set forth in § 1.17(h), unless such cause is the fault of the Office

In the Request, to establish cause, Petitioner asserts the claims and issues of the instant application are relevant to the claims and issues in at least U.S. Application No. 08/973,019 which Petitioner has appealed. Further, because the appeal of '019 will materially affect the prosecution of the instant application, the instant application should be suspended pending the decision on appeal of '019.

A review of the record indicates the instant application has claims and issues that are relevant to appealed case '019 . The claims in the instant application and appealed case '019 are both directed toward the particular structure of the high voltage cable. Consequently, since the

outcome of appealed case '019 will materially affect prosecution of the instant application, good and sufficient reasons have been demonstrated to warrant suspension of action.

Accordingly, the petition to suspend prosecution is GRANTED for a period of up to twelve (12) months starting from the filing of petition, August 30, 2002.

Inquiries regarding this decision should be directed to Richard Seidel at (703) 306-3431.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

29 JAN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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#6

Jay L. Chaskin
GENERAL ELECTRIC COMPANY
3135 Easton Turnpike W3C
Fairfield, Connecticut 06431

In re Application of	:	
Farid Zainullaevich UTYASHEV, et al.	:	
Application No.: 09/194,664	:	DECISION ON
PCT No.: PCT/US97/10673	:	PETITION
Int. Filing Date: 19 June 1997	:	UNDER 37 CFR 1.137(b)
Priority Date: 21 June 1996	:	
Attorney Docket No.: RD-25654	:	
For: METHOD FOR PRODUCING AXIALLY SYMMETRIC PARTS AND THE ARTICLE	:	

This decision is in response to the petition to revive under 37 CFR 1.137(b) filed 14 February 2000 and to the "STATUS INQUIRY" filed 17 October 2000 in the above-captioned application. The petition to revive is hereby **GRANTED** as follows:

The appropriate petition fee as required by 37 CFR 1.17(m) has been submitted.

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the entire delay to timely enter into the US national phase from the non-extended due date of August 16,1999 or the maximum extended due date of January 16, 2000 until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements by 37 CFR 1.137(b)(3) at the time of filing this petition.

A review of the declaration of the inventors filed with the petition reveals that it is in compliance with 37 CFR 1.497. Since the declaration of the inventors were submitted after 30 months from the priority date claimed of 21 June 1966, an amount of $130.00 surcharge (fee code 1617) for filing an oath or declaration after 30 months, has been charged to Counsel's Deposit Account No. 09-0470, as authorized in the petition.

Applicants' claim for priority is acknowledged. The application has an international filing date of **19 June 1997** under 35 U.S.C. 363 and a date of **14 February 2000** under 35 U.S.C. 371.

The request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America.

The application is being forwarded to the United States Designated/Elected Office for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application under 35 U.S.C. 371(c) and 37 CFR 1.495 (Form PCT/DO/EO/903) and for preparation and mailing of a filing receipt.

Boris Milef
PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/BM:hn

Tel: (703) 308-6508

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)
6188840	2001-02-13	09/194,694	1999-01-19	8722.911.USX

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Thomas Pavelko/	Date (YYYY-MM-DD)	2009-02-24
Name	Thomas Pavelko	Registration Number	31689

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6188840
Issue Date: February 13,2001
Application No. 09194694
Filed: January 19,1999
Attorney Docket No. TPP30548

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 24,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 24,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Scully, Scott, Murphy & Presser
400 Garden City Plaza
Garden City, NY 11530

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AUG 29 2008

In re Application of	:	
Gerhard Rinninger	:	
Application No. 09/194,703	:	DECISION ON PETITION
Filed: December 18, 1998	:	TO WITHDRAW
Attorney Docket No. 11889	:	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 18, 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. 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 Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "File responsibility was transferred . . . ," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to the address noted on the petition.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant or assignee.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Husch, Blackwell, Sanders, LLP
Welsh & Katz
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6266167
Issue Date: July 24,2001
Application No. 09195137
Filed: November 18,1998
Attorney Docket No. ZEB0020P1US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 9,2009 ,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 9,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6266167	2001-07-24	09/195,137	1998-11-18	ZEB0020P1US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/ Cyrus F. Bharucha /	Date (YYYY-MM-DD)	2009-09-09
Name	Cyrus F. Bharucha	Registration Number	42324

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 22

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GROUP

Steven W. Smyrski, Esq.
SMYRSKI & LIVESAY, LLP
3310 Airport Avenue, SW
Santa Monica, CA 90405-6118

In re Application of:	:	
Nielsen, *et al.*	:	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT
Application No. 09/195,533	:	
Filed: November 18, 1990	:	
Attorney Docket No.: KLAC0015	:	

This is a decision on the petition filed on September 27, 2002, to revive the above-identified application. The petition has been treated as a petition to withdraw the holding of abandonment under 37 CFR § 1.181 for which no fee is required.

The petition is **granted.**

The application was held abandoned for failure to file a response to the Office action of February 28, 2001. A Notice of Abandonment was mailed on November 07, 2001.

Petitioner asserts that the application was erroneously abandoned because on May 29, 2001 (May 29, 2001 was a Holiday) the petitioner submitted a responsive amendment responding to all points raised by the Examiner in the Office action of February 28, 2001 and fully complying with 37 C.F.R. § 1.111. The amendment was filed with a Request for Continued Examination (RCE). Additionally, the petitioner asserts that the United States Patent Office (PTO) notified the applicant that the RCE was improper and that if the RCE was accompanied by a reply to a non-final Office action, the reply would be entered and considered under 37 C.F.R. § 1.111. The petitioner relied upon the notification from the PTO to await further consideration of the amendment filed concurrently with the RCE.

A review of the application file reveals that on June 01, 2001, the PTO received an improper RCE and an amendment in response to the Office action of February 28, 2001. The amendment included a Certificate of Mailing in compliance with 37 C.F.R 1.8(a) having a date of deposit of May 29, 2001. In response to the improper RCE the PTO mailed a Notice of Improper Request for Continued Examination (FORM PTO-2051) indicating that continued examination under 37 C.F.R. 1.114 does not apply to an application unless prosecution in the application is closed.

Further, the PTO-2051 indicated that if the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 C.F.R. § 1.111. Accordingly, the response to the non-final Office action of February 28, 2001 was timely, and the application was not abandoned, in fact.

For the above stated-reason, the petition is **granted**. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for prompt appropriate action, including consideration of the amendment filed on June 01, 2001.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUL 10 2002

Paper No. 11

In re Application of
Junji Oishi *et al*
Application No. 09/195,595
Filed: November 18, 1998
Attorney Docket No. MAT-6750

DECISION ON PETITION

This application has recently been referred to the undersigned for consideration of the petition filed on June 8, 2001 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 10, 2000. No fee is required for the petition.

The petition is granted.

Petitioners allege that a timely reply was in fact filed. This allegation is supported by a copy of the reply, which has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated October 17, 2000. Taken together with the statement in the petition that this reply was in fact filed, the showing in support of the allegation that a timely reply was in fact filed satisfies the requirements of 37 CFR 1.8(b), and clearly establishes 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 October 17, 2001.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

Rater & Prestia
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P.O. Box 980
Valley Forge, PA 19482-0980

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:
Mohamed K. Diab, et al.	: DECISION ON PETITION
Application No.: 09/195,791	: UNDER 37 CFR 1.183
Filed: November 17, 1998	: SEEKING WAIVER OF
For: Signal Processing Apparatus	: REQUIREMENTS UNDER
Attorney Docket No. MASIMO.7CP1C5	: 37 CFR 1.98 and 1.52

This is a response to a petition under 37 CFR 1.183 mailed on June 15, 2005, concurrently with an Information Disclosure Statement (IDS) in the above referenced application. The § 1.183 petition requests waiver of the rules for Information Disclosure Statements under 37 CFR 1.98. The petition under 37 CFR 1.183, is requesting relief from the § 1.98 and § 1.52 provisions which require filing a paper copy of each reference cited in an IDS. The request for waiver is made in view of the need to file the same IDS copies in multiple applications relating to different aspects of a particular invention. A paper copy of the references was filed in application no. 10/779,033 on June 2, 2005.

The petition under 37 CFR 1.183 requesting relief to file a single paper copy of IDS references is **GRANTED** to the extent set forth below.

The instant application filed under 35 U.S.C. 111 is one of 12 U.S. applications related to patent families in litigation. The references cited in the IDS are references arising from the litigation.

Applicants' submission of an IDS is taken as an attempt to comply with 37 CFR 1.56(b)(1) that requires disclosure to the Office of information material to patentability, which includes information that "establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim...." Such disclosure can be made by an IDS in the manner prescribed by 37 CFR 1.97 and 1.98.

37 CFR 1.98 requires that any IDS provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. All papers filed in an application are required to be in paper by 37 CFR 1.52(a) unless they are under filed under some other provision of the rules or a waiver of the rules. 37 CFR 1.97 notes that information disclosure statements are considered in regard to the application in which they are filed. See also MPEP § 609 (8th Ed. Rev. 2, May 2004), pages 600-122 and 600-123.

Applicants note that the instant application is one of 12 applications that are part of patent families or claim benefit of a parent patent in the same litigation.

Rather than be required to submit, via a paper copy, five boxes of foreign patent and non-patent literature references in each of 12 applications, Applicants seek to have:

(1) The earlier filed single paper copy in application no. 10/779,033 of each IDS citation fulfill the requirement for a paper copy in all 12 applications;

(2) One application (application no. 10/779,033) identified as a "holding" application which would contain one complete set of paper copies of references; the paper copies of the references to be submitted in only the "holding" application; and

(3) The other related pending U.S. applications (the "bulk filing" applications), be exempt from requiring a separately filed paper set of the references; the bulk filing applications will contain other information, e.g., a copy of the decision on petition permitting such procedure, and a copy of the Form 1449 (or equivalent). The Office may choose at its option to provide electronic access or provide a copy of each reference in the "bulk filing" applications.

A review of Office records indicates that the instant application and the '033 application are both Image File Wrapper (IFW) applications. Also, since the '033 application has been published all the copies of the references in IFW are readily available to the public. Accordingly, the Office can provide an image copy of all of the IDS references from the holding application to the instant application.

Applicants' set of petitions appears to contain typographical errors noted below; while none of these errors affect the merit of any of the petitions, Applicants are requested to correct their records so as to prevent further confusion. First, the petition for application no. 09/111,604 is erroneously captioned as "09/110,604." Additionally, each petition incorrectly cites application no. 10/677,050 as "10/667,050" and incorrectly cites application no. 11/003,231 as "11/003,321."

Decision: 37 CFR 1.183 provides relief for extraordinary situations, when justice requires suspension of any requirement of the regulations which is not a requirement of the statutes. The instant petition urges that not only would applicants be spared the necessity of submitting duplicative paper copies of foreign patent and non-patent literature references in 12 applications, but also the Office would benefit from not having to handle and store the duplicative sets of

copies. While there may be some negative effects from the Office's point of view in terms of making the copies available in different applications from one paper copy, on balance, there is seen to be sufficient benefit to justify waiver in this instance for all the applications filed.

Accordingly, the petition under 37 CFR 1.183 is granted to the extent indicated and under the terms and conditions as are set forth below. Once past the initial IDS submission, the petition does not propose the waiver to apply to updates and no waiver is granted for updates of the IDS.

The § 1.98(a)(2) requirement for (the submission of) a copy of each foreign patent and non-patent literature IDS citation in a bulk filing application will be waived in the bulk filing applications only for non-patent literature and foreign patents provided that the following five conditions are complied with:

1) One paper copy of each foreign patent and non-patent literature IDS citation has been submitted to the Office in the concurrently filed IDS in the holding application.

2) The information cited in each of the bulk filing applications is or has also been cited in the holding application.

Note: Applicants are not required to cite in each bulk filing application every item of information that is cited in the holding application. Items should be cited in each bulk filing application on the basis of relevancy and materiality to the particular claims in the bulk filing application and what each piece of information teaches.

Also note: A waiver is not granted (for the requirement to supply a paper copy of an IDS citation in another bulk filing application) where the citation is not, or has not been, made in the holding application.

3) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), if submitted in the holding application, must also be supplied in each bulk filing application where the citation is made.

4) The Office accepts and specifically reserves the right to terminate the waiver grant in regard to § 1.98(a)(2) without provision of reasons. In such event, a two month period will be given where paper copies would have to be supplied in all applications where new citations are made. Should a termination of the waiver be desired by the Office, the Office will provide written notice to the correspondence address of record. Termination by applicants may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

5) There will be no waiver of any aspects of 37 CFR 1.97 in any application after allowance or final rejection of that application.

Any correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By FAX: (571) 273-8300
Attn: Office Patent Legal Administration/Samuel Broda

Telephone inquiries should be directed to Samuel Broda at (571) 272-7711.

Samuel Broda for

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
P.O. Box 1450
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JOHN M. GROVER
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED May 16 2006

In re Application of DIAB ET AL.
Appl. No.: 09/195,791
Filed: November 17, 1998
For: SIGNAL PROCESSING APPARATUS

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed March 20, 2006, to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a document entitled Information Disclosure Statement, filed March 20, 2006, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file. In as much as papers can not be physically expunged from the Image File Wrapper (IFW) System and returned to petitioner, all

documents submitted have been marked "expunged pursuant to petition under 37 CFR 1.59" and have been closed to public view.

Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center Special Programs Examiner at 571 – 272-4449.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

JUN 02 2009

OFFICE OF PETITIONS

In re Application of	:	
Dryja et al.	:	
Application No. 09/195,791	:	Petition for
Filing Date: November 17, 1998	:	Patent Term Extension
U.S. Patent No. 7,328,053	:	
For: Signal Processing Apparatus	:	

The above-identified application has been forwarded to the undersigned for consideration on a petition entitled "Petition under 37 CFR 1.181 for Correction of Patent Term Extension," received on April 4, 2008 and a supplemental petition entitled "Supplemental Petition under 37 CFR 1.181 for Correction of Patent Term Extension," received on June 30, 2008. The second petition is being treated under 37 CFR 1.182, since 37 CFR 1.701 does not provide for patent term extension for delays that occur due to a suspension for a potential interference.

The petition received on April 4, 2008 under 37 CFR 1.701 is granted-in-part.

The petition received on June 30, 2008 under 37 CFR 1.701 is dismissed.

Petitioner notes that the above-identified application was filed on November 17, 1998, and allowed on August 29, 2007, but issuance was delayed due to two suspensions in prosecution for a potential interference and delayed due to an interference. Petitioner states that the USPTO failed to provide patent term extension for the suspensions by the Examiner for an interference and the interference and that the 0 days of patent term extension calculation is incorrect.

Petitioner asserts that the application was suspended for two periods, the first period beginning on October 3, 2003 and ending on April 5, 2004, and the second period beginning on May 16, 2006 and ending August 16, 2006. Petitioner argues that the patent is eligible for 246 days of patent term extension for the above periods of extension which partially overlap with the eventual interference under 37 CFR 1.701(c)(1).

Petitioner states that an interference was declared on July 18, 2006. Petitioner states that the date of judgement of the interference is November 24, 2008. Petitioner states that the patent was delayed for 130 days due to the interference pursuant to 37 CFR 1.701.

Petitioner contends that after the decision November 24, 2006, the BPAI failed to forward the application back to the examiner until February 13, 2007 thus causing further delay. Petitioner contends that the patent should be adjusted by an additional 80 due to the delay. Petitioner contends that the interference was not "terminated" within the meaning of the rule until the BPAI forwarded the application to the Examiner for review. Petitioner asserts that the intent of 37 CFR 1.701 is to allow for patent term extension for delay caused by interference proceedings which would include any delay caused by the BPAI in dispatching the case back to the Examiner.

Petitioner asserts that the period of extension under 37 CFR 1.701 should be 456 day (246 + 130 + 80) due to delays by the Office.

On October 3, 2003, a first Letter of Suspension was mailed by the Office.

On May 16, 2006, a second Letter of Suspension was mailed by the Office.

On July 18, 2006, a Declaration of Interference was mailed by the Office.

On November 24, 2006, a judgment was made, by a decision mailed by the Board of Patent Appeals and Interferences.

On March 13, 2007, a Notice of Allowance and Fee Due notice was mailed by the Office.

The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154. 35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

The above-identified application was filed on November 17, 1998. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.

Petitioner asserts that under 37 CFR 1.701(c)(1)(ii); the patent term extension should be 246 days for the delays due to the suspensions in prosecution due to an interference. While prosecution in the application was suspended twice, the suspensions were due to a potential interference with applicants' application with other application(s), not to await the result of interference in another application. As a result, the provision of 37 CFR 1.701(c)(1)(ii) does not apply. The provisions of 37 CFR 1.701(c)(1)(ii) apply to suspensions by the Office due to interference proceedings under 35 U.S.C. 135(a), however, in this instance there was no interference proceeding. Petitioners' argument that he is entitled to patent term extension for the two periods of suspension under the

provision of 37 CFR 1.701(c)(1)(ii) is not persuasive. The application is entitled to zero (0) days of patent term extension under 37 CFR 1.701(c)(1)(ii).

According to 37 CFR 1.701(c)(1)(i), the application is entitled to patent term extension for the number of days, in the period beginning on the date the interference was declared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application. The interference was declared on July 18, 2006, the date of the Declaration of Interference. A final decision was entered on November 24, 2006, the date of the decision by the Board of Patent Appeals and Interferences. According to 37 CFR 1.661, after a final decision by the Board is entered, interference is considered terminated when no appeal or other review has been or can be taken. As a result, the period of extension is 191 days, the period from July 18, 2006, the date of the declaration of interference to January 24, 2007, which is two months after the mailing of the decision by the Board including the beginning and end dates.

While Petitioner argues that additional patent term extension should be granted because the interference was not terminated until February 13, 2007, the date the application was dispatched to the Examiner, as the Board still had jurisdiction. The interference was terminated two months after the mail date of the decision by the Board, and when no further appeal was taken. After the Board entered the final decision, there were no further interference proceedings with respect to the application, thus the application is not entitled to additional patent term extension.

The delay in issuance of petitioner's patent is regretted. However, the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b).

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 **191 days** under 35 U.S.C. 154(b). This time limit is NOT extendible under 37 CFR 1.136

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized the $400 fee for the petition under 37 CFR 1.182 has been charged to Petitioners Deposit Account (11-1410).

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Applicants submit that the entire 183 day delay due to the first suspension should be added to the patent term extension. The second suspension overlapped with the amount of delay due to the eventual interference involving the present application and Applicant submits that, under 37 C.F.R. § 1.701(c), the non-overlapping period of 63 days should also be added to the patent term extension. As such, Applicants submit that the requested additional **246** days reflects the cumulative total of the first suspension and the non-overlapping portion of the second suspension, and should be added to the patent term extension.

Summary

As set forth in the Earlier Filed Petition, Applicants submit that the present application was delayed by at least 210 days due to an interference proceeding in which the application was involved. Moreover, the present application was delayed by 246 days due to suspension of prosecution of the application due to interference proceedings. As such, the Applicants submit that the patent term extension should reflect the cumulative total of at least **456 days** of delay due to interference proceedings pursuant to 37 C.F.R. § 1.701, and request that the patent term extension be corrected to reflect at least this amount.

No fee is deemed due under 37 C.F.R § 1.181 as neither 37 C.F.R. § 1.181 nor 37 C.F.R. §1.701 indicate that a fee is due in conjunction with a Petition under 37 C.F.R §1.181. However, in the event that a fee is due, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

06/02/2009 LDIEP1 00000001 111410 7328053
01 FC:1462 400.00 DA

Dated: June 30, 2008

By: _____
John M. Grover
Registration No. 42,610
Attorney of Record
Customer No. 20,995
(949) 760-0404

5581956

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

HICKMAN STEPHENS & COLEMAN, LLP
P. O. BOX 52037
PALO ALTO, CA. 94303-0746

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JAN 19 2000

Director's Office
Group 2700

Paper No. 6

In re Application of Handel et al.
Appl. No.: 09/195,852
Filed: November 19, 1998
For: SYSTEM, METHOD AND ARTICLE OF MANUFACTURE FOR ADVANCED INFORMATION GATHERING FOR A UBIQUITOUS, VIRTUAL PROFILE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL
37 CFR 1.102

This is a decision on the petition under 37 CFR 1.102, filed December 15, 1999, to make the above-identified application special.

Petitioner requests that this application be made special under the accelerated examination procedure set forth in MPEP 708.02, Section VIII: Accelerated Examination

A grantable petition to make an application special under 37 CFR 1.102 and in accordance with MPEP 708.02, Section VIII, must be accompanied by:

(a) the required fee pursuant to 37 CFR 1.17(i),

(b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the PTO hold that the claims are not directed to a single invention,

(c) a statement that a pre-examination search has been made, listing the field of search,

(d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and

(e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

The petition meets the requirements for special status.

For the above stated reasons, the petition is Granted.

If the examiner can make this application special without prejudice to any possible interfering application, and the examiner should make a rigid search for such, the examiner is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any intervening application for the same subject matter, the examiner should consider such application simultaneously with this application and should state in the official letter of such application that the examiner has taken it out of turn because of a possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all PTO officials concerned, contingent like upon diligent prosecution by applicant.

The petition is granted to the extent indicated.

James J Groody

James J. Groody (703) 308-5461
Special Program Examiner
Technology Center 2700
Communications and Information Processing

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR
UNITED STATES PATENT AND TRADEMAR
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ALEXANDRIA, VA 2231
www.u

Paper No. 60

OPPENHEIMER WOLFF & DONNELLY,
LLP (ACCENTURE)
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1609

COPY MAILED

JUL 07 2005

OFFICE OF PETITIONS

In re Application of	:	
Handel et al.	:	DECISION ON
Application No. 09/195,852	:	PETITION
Filed: November 19, 1998	:	
Attorney Docket No. AC980009	:	
	:	

This is in response to the "Petition to Revive under 37 CFR 1.137(a)" filed December 3, 2004 (and resubmitted June 6, 2005). Under the circumstances of this case, this petition is properly treated as a request to withdraw the holding of abandonment under 37 CFR 1.181. The instant petition was recently forwarded to the undersigned for consideration.

The petition under § 1.181 is **granted**.

The above-identified application became abandoned for failure to timely pay the required issue fee within the statutory period of three (3) months from the mailing date, June 21, 2004, of the Notice of Allowance and Fee(s) Due. (There was no concurrent but distinct requirement for new drawings or payment of the publication fee). No extensions of time are permitted for transmitting issue fees. No reply considered received, the above-identified application became abandoned on September 22, 2004. A Notice of Abandonment was mailed on November 8, 2004.

In response, applicant promptly filed the instant petition. Therein, applicant asserts that the issue fee was timely paid by facsimile on August 20, 2004.

However, consideration of petitioner's evidence is unnecessary. A review of Office records makes clear that the issue fee transmittal was timely received in the Office on August 20, 2004 and misplaced in the Office. The transmittal with a date of receipt in the Office of August 20, 2004 has now been made of record in the instant application. (It is further noted that an amendment after allowance filed July 7, 2004 was also misplaced. It too has been made of record in the instant application).

The issue fee has now been charged to petitioner's Deposit Account.

In view thereof, the issue fee payment is considered timely filed, and the holding of abandoned is hereby **WITHDRAWN**.

Since consideration of the petition under § 1.137(a) is unnecessary for the reasons cited, the petition fees[1] will be refunded to Deposit Account No. 50-1901, as authorized.

This file is being forwarded to Technology Center AU 2177 for consideration by the examiner of the amendment after allowance filed July 7, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] The fee was charged twice, on the initial and resubmission of the petition. Both fees, totaling $610, are being refunded.

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

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~~of Correction~~

Paper No. Ten

J. Harold Nissen
McAulay Nissen Goldberg Kiel & Hand, LLP
261 Madison Avenue
New York NY 10016-2391

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SEP 2 7 2006

OFFICE OF PETITIONS

In re Application of Sung Moon Chun et al. Application No. 09/195,897 Filed: November 19, 1998 Attorney Docket No. 06730/017001 Title: OBJECT-BASED CODING AND DECODING APPARATUSES AND METHODS FOR IMAGE SIGNALS	DECISION ON PETITION UNDER 37 C.F.R. §1.181(A)

This is a decision on the petition filed December 27, 2005, pursuant to 37 C.F.R. §1.181(a), to revive the above-identified application. Supplements to this petition were received on March 1, 2006 and June 8, 2006.

The Office regrets the period of delay in issuing this decision.

BACKGROUND

The above-identified application became abandoned for failure to submit the issue fee and corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 7, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on June 8, 2005. A Notice of Abandonment was mailed on October 27, 2005.

1 See MPEP §710.02(e).

With the present petition, Petitioner has asserted that the Notice of Allowance and Issue Fee Due was not received.

RELEVANT PORTIONS OF THE MPEP AND C.F.R.

MPEP §711.03(c)(I)(A) sets forth, in toto:

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt 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 nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions). Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

§ 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 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

§ 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 FR 41276, Sept. 17, 1982, effective Oct. 1, 1982; para. (d) deleted, 49 FR 555, Jan. 4, 1984, effective Apr. 1, 1984; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997]

ANALYSIS

Petitioner has asserted that he failed to receive the notice in question. Petitioner has failed to provide a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed, and it does not appear that he has searched the file jacket and docket records for this communication.

Petitioner has included a change of address which contains a certificate of mailing dated June 30, 1999, although it is noted that it appears that Petitioner has failed to provide a statement from the individual who executed this certificate of mailing, Ms. Ruth Montalvo.

CONCLUSION

For these reasons, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." 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[1], hand-delivery[2], or facsimile[3].

Alternatively, Petitioner may wish to consider submitting a petition under 37 C.F.R. §1.137(a) and/or (b).

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

The Change of Correspondence Address and Power of Attorney has been entered and made of record.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No. None

J. Harold Nissen
Lackenbach Siegel, LLP
One Chase Road
Scarsdale NY 10583

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of :
Sung Moon Chun et al. :
Application No. 09/195,897 :
Filed: November 19, 1998 :
Attorney Docket No.: :
06730/017001 :
Title: OBJECT-BASED CODING AND :
DECODING APPARATUSES AND :
METHODS FOR IMAGE SIGNALS :

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition filed on November 9, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to submit the issue fee and corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 7, 2005, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting corrected drawings or issue fees[1]. Accordingly, the above-identified application became abandoned on June 8, 2005. A Notice of Abandonment was mailed on October 27, 2005.

An original petition was filed on December 7, 2005, where Petitioner alleged that the Notice of Allowance and Issue Fee Due was not received. This petition was dismissed via the mailing of a decision on September 27, 2006.

1 See MPEP §710.02(e).

ANALYSIS

With this renewed petition, Petitioner has submitted a change of address request, which contains a certificate of mailing dated July 16, 2001, and was signed by Petitioner.

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 the mailing was not received.

CONCLUSION

Accordingly, this renewed 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 re-mail the Notice of Allowance and Issue Fee Due of March 7, 2005, and will set a new period for response.

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
Washington, D.C. 20231
www.uspto.gov

Paper No. 11

Cesari and McKenna
88 Black Falcon Avenue
Boston, MA 02210

COPY MAILED

OCT 1 5 2002

OFFICE OF PETITIONS

In re Application of
Scott Bales
Application No. 09/195,933
Filed: November 19, 1998
Attorney Docket No. 112025-0094

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2002, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 18, 2001, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 19, 2001.

This application is being forwarded to Technology Center AU 2157 for further processing.

Telephone inquiries regarding this decision may be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6253511
Issue Date: July 3,2001
Application No. 09196050
Filed: November 19,1998
Attorney Docket No. 97-486

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 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 November 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)
6253511	2001-07-03	09196050	1998-11-19	3867-091932

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Richard L. Byrne/	Date (YYYY-MM-DD)	2009-11-03
Name	Richard L. Byrne	Registration Number	28498

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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Paper No. 8

Stephen A. Becker
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-8087

MAILED

JUL 0 9 2002

Technology Center 2100

In re Application of: Shigeki Ohbayashi	)	
Application No. 09/196,136	)	
Filed: November 20, 1998	)	**DECISION ON PETITION UNDER 37**
For: SEMICONDUCTOR INTEGRATED	)	**C.F.R. § 1.181 TO WITHDRAW**
CIRCUIT HAVING BONDING	)	**HOLDING OF ABANDONMENT**
OPTIONAL FUNCTION	)	

This decision is in response to the communication filed May 6, 2002 which is being treated as a petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment of the above-identified application.(See MPEP § 711.03(c)).

The petition is **DISMISSED**.

This application was held abandoned for failure to timely file a proper reply to the Office Action of mail date August 16, 2001. A Notice of Abandonment was mailed on April 18, 2002.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office may presume that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

RECENT CASE HISTORY

January 19, 2001	-	Office Action (Paper No. 2) mailed setting a shortened statutory period of response to expire three months from the mailing date of the action.
July 25, 2001	-	Applicant filed a Correspondence Address Change (Paper No. 3)
August 16, 2001	-	Office Action of January 19, 2001 remailed (Paper No. 4) resetting the period of reply to expire three months from the mailing date of the remailed action.
April 18, 2002	-	Notice of Abandonment (Paper No. 6) was mailed.
May 6, 2002	-	Applicant filed Petition to Withdraw the Holding of Abandonment.

BASIS OF OPINION

The relevant portions of the Statutes and Rules are reproduced below. Emphasis is added to draw attention to the critical phrases.

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 Director in such action, the **application shall be regarded as abandoned** by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR § 1.135 Abandonment for failure to reply within time period

> (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**.

M.P.E.P. § 711.03(c), section II states:

> The showing required to establish nonreceipt 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 nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

OPINION

Based on *35 U.S.C. 133*, Applicant is given six months, or within such shorter time, as indicated in an Office communication, to prosecute the application after <u>any action therein</u>. If Applicant fails to do so, the application is regarded as abandoned.

Examiner issued an Office Action on January 19, 2001, setting a shortened statutory period of response to expire 3 months from the mailing date of the action. Because Applicant failed to provide a timely reply to the Office Action within the 3 month shortened statutory period or the maximum 6 month statutory period (which expired July 19, 2001), the application was abandoned.

Applicant provided a new correspondence address on July 25, 2001. Examiner then remailed the Office

Action on August 16, 2001. The record shows that this mailing was sent to the old address. However, this is irrelevant as the entire mailing was ineffective. Because no response was received within the 6 month statutory period the application was already in abandoned status at the time of the remailing. The Examiner was without authority to issue an action outside the 6 month statutory period.

In support of the petition, the Petitioner, Stephen A. Becker, provides a "copy of the automated docket of our Docketing Department for the above application, and also copies of the pages from the Docket Book of the undersigned's secretary for the due date of November 16, 2001" and points out that the "official action due date does not appear on either docket record listing". Note that there is no explanation of the electronic record keeping system and the record provided and therefore it is not clear what information this evidence is meant to convey.

Applicant's submission provides evidence that the Office Action was not received at the firm's Washington DC address. To overcome the presumption of proper mailing, a showing must be made with respect to the address of record. The address of record at the time the January 19th Office Action was mailed was Applicant's address at Canal Center Plaza, in Alexandria, VA. Since the showing was made with respect to the Washington DC address and not Applicant's address in Alexandria, VA, the showing is insufficient. ***Furthermore, the showing of nonreceipt must be made for the January 19th Office Action, not the August 16th remailing.***

CONCLUSION

Because Applicant failed to provide a timely reply to the Office Action of mail date January 19, 2001, within the 3 month shortened statutory period or the maximum 6 month statutory period, the application was correctly abandoned.

The showing of nonreceipt is insufficient because it was made for the August 16th action, rather than the January 19th action.

Accordingly, the petition for Withdrawal of Holding of Abandonment is **DISMISSED.**

If the petitioner desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

Margaret A. Focarino

Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

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Paper No. 10

MAY 1 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Stephen A. Becker
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-8087

In re Application of: Shigeki Ohbayashi	)	
Application No. 09/196,136	)	
Filed: November 20, 1998	)	**DECISION ON PETITION UNDER 37**
For: SEMICONDUCTOR INTEGRATED	)	**C.F.R. § 1.181 TO WITHDRAW**
CIRCUIT HAVING BONDING	)	**HOLDING OF ABANDONMENT**
OPTIONAL FUNCTION	)	

This is a decision on the Request for Reconsideration filed September 9, 2002 in response to the decision (Paper No. 8, mailed May 9, 2002) Dismissing Applicant's petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment. (See MPEP § 711.03(c)).

The petition is **DENIED**.

This application was held abandoned for failure to timely file a proper reply to the Office Action of mail date August 16, 2001. A Notice of Abandonment was mailed on April 18, 2002.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office may presume that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

RECENT CASE HISTORY

January 19, 2001	-	Office Action (Paper No. 2) mailed setting a shortened statutory period of response to expire three months from the mailing date of the action.
July 25, 2001	-	Applicant filed a Correspondence Address Change (Paper No. 3)
August 16, 2001	-	Office Action of January 19, 2001 remailed (Paper No. 4) resetting the period of reply to expire three months from the mailing date of the remailed action.
April 18, 2002	-	Notice of Abandonment (Paper No. 6) was mailed.
May 6, 2002	-	Applicant filed Petition to Withdraw the Holding of Abandonment.

May 9, 2002 - Petition is dismissed. The petition explains that the August 16, 2001 remailing was unauthorized and the abandonment is actually caused by failure to respond the Office action of January 19, 2001. The original petition was dismissed because Applicant's submission did not provide evidence of non-receipt with respect to the address of record. The address of record at the time the January 19th Office Action was mailed was Applicant's address at Canal Center Plaza, in Alexandria, VA.

September 9, 2002 - Applicant filed Request for Reconsideration of Petition decision.

BASIS OF OPINION

The relevant portions of the Statutes and Rules which were not part of the original decision are reproduced below. Emphasis is added to draw attention to the critical phrases.

M.P.E.P. §601.03 Change of Correspondence Address

> Where an attorney or agent of record (or applicant, if he or she is prosecuting the application pro se) changes his or her correspondence address, ***he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address*** (including ZIP Code). The notification should also include his or her telephone number.
>
> Unless the correspondence address is designated as the address associated with a Customer Number, a separate notification must be filed in each application for which a person is intended to receive communications from the Office. **See MPEP § 403 for Customer Number Practice.** In those instances where a change in the correspondence address of a registered attorney or agent is necessary in a plurality of applications, the notification filed in each application may be a reproduction of a properly executed, original notification. The original notice may either be sent to the Office of Enrollment and Discipline as notification to the Attorney's Roster of the change of address, or may be retained by applicant. See MPEP § 502.02.

M.P.E.P. §403 Correspondence —With Whom Held

> The Office will also ***accept requests submitted electronically via a computer-readable diskette to:***
>
> (A) change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number; and
>
> (B) submit a power of attorney in a list of applications or patents to the registered practitioners associated with the Customer Number.
>
> Such electronic requests ***must be submitted in the manner set forth*** in the Notice entitled "Extension of the Payor Number Practice (through "Customer Numbers") to Matters Involving Pending Patent Applications," published in the Federal Register at 61 FR 54622, 54623-24 (October 21, 1996), and in the Official Gazette at 1191 O. G.187, 188-89 (October 29, 1996).

Official Gazette at 1191 O. G.187, 188-89 (October 29, 1996).

...

> The PTO will also accept requests submitted electronically ***via a computer-readable diskette*** to: (1) change the correspondence address of a list of applications or patents or the fee address for a list of patents to the address associated with a Customer Number;

...

> Persons electronically submitting such a request must submit an IBM-compatible diskette containing a Microsoft Excel spreadsheet, or a comma separated text file which can be imported into Microsoft Excel spreadsheet, ...
>
> The diskette contained on the spreadsheet into PTO records for the listed applications or patents. In addition, for any application or patent listed on such spreadsheet, the cover letter must be signed by the applicant or patentee, assignee in compliance with 37 CFR 3.73(b), or registered practitioner of record in the patent or application. ***The PTO will issue a written confirmation*** of the list of applications or patents indicating the change(s) entered into PTO records.

OPINION

The previous decision dismissed applicant's petition stating:

> Applicant's submission provides evidence that the Office Action was not received at the firm's Washington DC address. To overcome the presumption of proper mailing, a showing must be made with respect to the address of record. The address of record at the time the January 19th Office Action was mailed was Applicant's address at Canal Center Plaza, in Alexandria, VA. Since the showing was made with respect to the Washington DC address and not Applicant's address in Alexandria, VA, the showing is insufficient. ***Furthermore, the showing of nonreceipt must be made for the January 19th Office Action, not the August 16th remailing.***

In the request for reconsideration, Petitioner attempts to establish that the Office action of January 19, 2001, was mailed to an incorrect address. Petitioner states that an electronic Change of Address for Customer No. 020277 was filed **by e-mail** on August 29, 2000. (Emphasis added).

Applicant bears the responsibility for informing the Office of a change in correspondence address. The Office has established procedures for electronic submission of change of address requests. Applicant has not employed that procedure.

There is no provision for filing requests for change of correspondence address by e-mail. As per the guidelines published in the Notice entitled "*Extension of the Payor Number Practice (through "Customer Numbers") to Matters Involving Pending Patent Applications*," electronic submissions must (1) be on IBM-compatible diskette; (2) be accompanied by (i) a paper copy of the spreadsheet and (ii) a cover letter requesting entry of the changes.

Applicant's submission did not comply with these requirements. Accordingly, the retention of the original address in the application is in conformance with Office practice.

CONCLUSION

Applicant failed to provide a proper request for change of correspondence address. Therefore, the address of record at the time the January 19th Office Action was mailed was Applicant's address at Canal Center Plaza, in Alexandria, VA. The Office action was properly mailed to that address.

Because Applicant failed to provide a timely reply to the Office Action of mail date January 19, 2001, within the 3 month shortened statutory period or the maximum 6 month statutory period, the application was correctly abandoned.

Accordingly, the petition for Withdrawal of Holding of Abandonment is **DENIED.**

If the petitioner desires further review of the Director's decision, applicant should consider filing a Petition for Review of the Director's Decision under 37 C.F.R. § 1.181(a)(3).

Inquiries with respect to this decision may be directed to Special Programs Examiner Pinchus M. Laufer at (703) 306-4160.

Margaret A. Focarino

Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 12

Stephen A. Becker
McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-8087

RECEIVED
JAN 2 6 2004
Technology Center 2100

In re Application of: Shigeki Ohbayashi	)	
Application No. 09/196,136	)	
Filed: November 20, 1998	)	**DECISION ON PETITION UNDER 37**
For: SEMICONDUCTOR INTEGRATED	)	**C.F.R. § 1.181 TO WITHDRAW**
CIRCUIT HAVING BONDING	)	**HOLDING OF ABANDONMENT**
OPTIONAL FUNCTION	)	

This is a decision on the Request for Reconsideration filed June 19, 2003 in response to the decision (Paper No. 10, mailed September 9, 2002) Denying Applicant's petition under 37 C.F.R. § 1.181 requesting the Withdrawal of the Holding of Abandonment. (See MPEP § 711.03(c)).

This application was held abandoned for failure to timely file a proper reply to the Office Action of mail date January 19, 2001 and remail date August 16, 2001. A Notice of Abandonment was mailed on April 18, 2002.

In the absence of any apparent irregularity associated with the mailing of an Office communication, the Office may presume that the communication was properly mailed to the address of record. This presumption may be overcome by showing that the Office communication was not received.

Inspection of the instant file reveals USPTO receipt of the returned Office action mailed January 19, 2001 and remailed August 16, 2001. This evidence independently corroborates that the Office action was not received by applicants at the address to which it was mailed. *See, Ex Pate Gourtoff*, 1924 C.D. 153 (Comm'r Pat. 1924). The presence of the returned mailings in the file rebuts any presumption of proper mailing and receipt of the action.

The petition is **GRANTED**. The abandonment is **WITHDRAWN**. The application file is being forwarded to the Technology Center support staff. The Office action of January 19, 2001 will be remailed to the address noted above with the three month Shortened Statutory Period restarted to run from the date of the remailing.

Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081211

DATE : December 17, 2008

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6,664,413

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:

SPE: Janet Andres

Art Unit 1625

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

FEB 2 2000

In re Application of
Handel et al.
Serial No.: 09/196,338
Filing Date: November 19, 1998

DECISION ON
PETITION
TO MAKE SPECIAL

This is a decision in response to the petition filed December 13, 1999 requesting that the above-captioned application be made special pursuant to 37 CFR 1.102.

☐ No petition fee is required (37 CFR 1.102(c)).

☒ The requisite petition fee ☐ has been submitted ☒ has been charged to deposit account 50-0797 as authorized (37 CFR 1.102(d) and 37 CFR 1.17(i)).

The petition is **GRANTED**.

The petition is sufficient to satisfy the conditions set forth in:

☐ Section 708.02 I (Manufacture) of the M.P.E.P. (37 CFR 1.102(d)).

☐ Section 708.02 II (Infringement) of the M.P.E.P. (37 CFR 1.102(d)).

☐ Section 708.02 III (Applicant's Health) of the M.P.E.P. (37 CFR 1.102(c)).

☐ Section 708.02 IV (Applicant's Age) of the M.P.E.P. (37 CFR 1.102(c)).

☐ Section 708.02 V (Environmental Quality) M.P.E.P. (37 CFR 1.102(c)).

☐ Section 708.02 VI (Energy) of the M.P.E.P. (37 CFR 1.102(c)).

☒ Section 708.02 VIII (Accelerated Examination) of the M.P.E.P. (37 CFR 1.102(d)).

☐ Section 708.02 IX (Superconductivity) of the M.P.E.P. (37 CFR 1.102(d)).

☐ Section 708.02 X (HIV/AIDS and Cancer) of the M.P.E.P. (37 CFR 1.102(d)).

☐ Section 708.02 XI (Inventions for Countering Terrorism) of the M.P.E.P. (37 CFR 1.102(d)).

The application is being forwarded to the examiner, or other appropriate personnel.

Keith Stephans
Hickman Stephans + Coleman, LLP
P.O. Box 52037
Palo Alto, CA 94303

BRIAN W. BROWN
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 23

CHEVRON PHILLIPS CHEMICAL COMPANY LP
LAW DEPARTMENT - IP
PO BOX 4910
THE WOODLANDS TX 77387-4910

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NOV 1 5 2002

OFFICE OF PETITIONS

In re Application of :
Brown, et al. :
Application No. 09/196,347 : DECISION ON PETITION
Filed: November 19, 1998 :
Attorney Docket No. 33536US1 :

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(b), filed June 26, 2002,.

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 October 5, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2002. A Notice of Abandonment was mailed on April 18, 2002.

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).

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, 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 petition fee of $1,280 has been charged to Deposit Account No. 50-1629, as authorized.

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 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

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Charles W. Stewart
P.O. Box 4910
The Woodlands, Texas 77387-4910

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 27

CHEVRON PHILLIPS CHEMICAL COMPANY LP
LAW DEPARTMENT - IP
PO BOX 4910
THE WOODLANDS TX 77387-4910

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JAN 27 2003

OFFICE OF PETITIONS

In re Application of Brown, et al. Application No. 09/196,347 Filed: November 19, 1998 Attorney Docket No. 33536US1	: : : : :	DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 15, 2003.

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 5, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 6, 2002. A Notice of Abandonment was mailed on April 18, 2002. Petitioner filed a petition to revive under 37 CFR 1.137(b) on June 26, 2002. However, because petitioner failed to submit the required reply, the petition was dismissed in a decision mailed on November 15, 2002.

With the instant petition, petitioner filed a Continued Prosecution Application (CPA) of the above-identified application under 37 CFR 1.53(d). Because an earlier CPA was filed on or after May 29, 2000[1], the instant request for a CPA is being treated as a Request for Continued Examination (RCE) under 37 CFR 1.114.

The Change of Correspondence Address filed on December 9, 2002 has not been entered. There is no indication that the person signing the Change of Correspondence Address J(Rodney B. Carroll) 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 currently of record until such time as appropriate instructions are received to the contrary.

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[1] Petitioner filed a CPA on January 12, 2001.

Furthermore, 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 Technology Center 1700 for consideration of the RCE and the submission, an amendment previously filed on June 26, 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

cc: Rodney B. Carroll
Conley Rose, P.C.
5700 Granite Parkway, Suite 330
Plano, Texas 75024

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[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

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Paper No. 25

RECEIVED
JAN 16 2004
TC 1700

THOMAS J. ROSSA, ESQ.
HOLME, ROBERTS & OWEN LLP
111 EAST BROADWAY
SUITE 1100
SALT LAKE CITY, UT 84111-5233

COPY MAILED
DEC 17 2003
OFFICE OF PETITIONS

In re Application of :
Jessop et al. :
Application No. 09/196,524 :
Filed: November 20, 1998 :
Attorney Docket Number :
3517.1 :

This is a decision on the petition under 37 CFR 1.137(a), and alternatively under 37 CFR 1.137(b), filed November 21, 2003, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

The petition under 37 CFR 1.137(b) is **GRANTED.**

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addresses to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office communication, mailed July 2, 2002, which set a statutory period for reply of three (3) months. Extensions of time under the provisions of 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned on October 3, 2003. A Notice of Abandonment was mailed on March 19, 2003.

Petition under 37 CFR 1.137(a) for unavoidable abandonment

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 met by the filing of a

notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**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 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3).

Applicant's Assertion

Applicant asserts that the delay in responding to the July 2, 2002, Office communication was unavoidable because apparently an a former associate of the law firm responsible for prosecution of this application intercepted the Office communication "before it was properly docketed or distributed." *Petition* at p.4.

Applicant has not provided an adequate showing of unavoidable delay

As to item (3), Applicant has not demonstrated unavoidable delay. A delay resulting from a docketing error on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;
(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
(3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

See MPEP 711.03(c)(III)(C)(2). *See, also, In re Egbers*, 6 USPQ2d, 1869, 1972 (Comm'r Pat. 1988), *rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg*, 10 USPQ2d 1787 (D.D.C. 1998)

Petition under 37 CFR 1.137(b) for unintentional abandonment

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the July 2, 2002 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1723 for processing of the Amendment, filed November 21, 2003, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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Paper No. 25

THOMAS J. ROSSA, ESQ.
HOLME, ROBERTS & OWEN LLP
111 EAST BROADWAY
SUITE 1100
SALT LAKE CITY, UT 84111-5233

In re Application of :
Jessop et al. :
Application No. 09/196,524 :
Filed: November 20, 1998 :
Attorney Docket Number :
3517.1 :

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DEC 17 2003
OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.137(a), and alternatively under 37 CFR 1.137(b), filed November 21, 2003, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

The petition under 37 CFR 1.137(b) is **GRANTED.**

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under 37 CFR 1.137", and be addresses to Petitions Attorney Derek L. Woods. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office communication, mailed July 2, 2002, which set a statutory period for reply of three (3) months. Extensions of time under the provisions of 37 CFR 1.136(a) were available. No reply having been received, the above-identified application became abandoned on October 3, 2003. A Notice of Abandonment was mailed on March 19, 2003.

Petition under 37 CFR 1.137(a) for unavoidable abandonment

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 met by the filing of a

notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**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 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3).

Applicant's Assertion

Applicant asserts that the delay in responding to the July 2, 2002, Office communication was unavoidable because apparently an a former associate of the law firm responsible for prosecution of this application intercepted the Office communication "before it was properly docketed or distributed." *Petition* at p.4.

Applicant has not provided an adequate showing of unavoidable delay

As to item (3), Applicant has not demonstrated unavoidable delay. A delay resulting from a docketing error on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;
(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
(3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

See MPEP 711.03(c)(III)(C)(2). *See, also, In re Egbers*, 6 USPQ2d, 1869, 1972 (Comm'r Pat. 1988), *rev'd on other grounds sub nom., Theodor Groz & Sohne & Ernst Bechert Nadelfabrik KG v. Quigg*, 10 USPQ2d 1787 (D.D.C. 1998)

Petition under 37 CFR 1.137(b) for unintentional abandonment

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c).

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). An Amendment in response to the July 2, 2002 Office action is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 1723 for processing of the Amendment, filed November 21, 2003, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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Paper No. 20

MAIL

JAN 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of :
RABAEIJS et al. :
Application No. 09/196,658 : DECISION ON PETITION
Filed: November 19, 1998 :
For: **METHOD AND APPARATUS FOR RECEIVING GPS/GLONASS SIGNALS** :

This is a decision on the Petition filed October 6, 2003, which is being treated under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to respond in a timely manner to the Ex Parte Quayle Action mailed on February 10, 2003. The application became abandoned when no further response was received. A Notice of Abandonment was mailed September 24, 2003.

Petitioner alleges to have timely filed a proper response to said Ex Parte Quayle Action. In support, petitioner has provided a copy of the response to the Ex Parte Quayle Action, including a Certificate of Facsimile Transmission dated April 10, 2003 in compliance with 37 CFR 1.8(a)(1), and a copy of the Facsimile Confirmation Report generated by the Patent and Trademark Office, which serves as evidence of timely receipt by the PTO.

Therefore it is concluded that the response was timely filed but not matched with the application file. The Office sincerely regrets the inconvenience to applicant. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being forwarded to the technical Support staff for entry of the response to the Ex Parte Quayle Action. From there, the file will be forwarded to the Examiner for consideration and appropriate action as required.

Jim F. Ng, Director
Technology Center 2600
Communications

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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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DEC - 6 2001

#19

DAVID W. CLOUGH
KATTEN MUCHIN ZAVIS
525 WEST MONROE- SUITE 1600
CHICAGO, ILLINOIS 60661-3693

In re Application of	:
McCafferty et al	:
Serial No.: 09/196,673	: PETITION DECISION
Filed: November 20, 1998	:
Attorney Docket No.: 13839-00003	:

This is in response to applicants' petition filed under 37 CFR 1.181 and 1.183 on 11 October 2001, to request that a sequence listing not be required for the present application.

The petition was filed in response to an Office action mailed by the examiner dated 24 September 2001, which stated that the application failed to comply with the Sequence Listing requirements of 37 CFR 1.821-1.825. Specially, applicants failed to provide a computer readable form of the sequence listing and a paper copy of the sequence listing along with a statement that the contents of the paper copy and computer readable form are the same and that no new matter has been added.

A review of the '673 file shows that the instant application was filed as a continuing application under 35 U.S.C. 111 (Paper No. 2 filed 11/20/98) which claims priority to US SN 07/971,857, filed 8 January 1993, under 35 U.S.C. 371 as national stage filing of PCT/GB91/01134, filed 10 July 1991. The exemption from filing a sequence listing as discussed in MPEP 2421 is limited to the national stage filing under 37 C.F.R. 371. In the instant application's lineage, that exemption is only granted to the 07/971,857 application which was the national stage filing under 35 U.S.C. 371 and was filed prior to implementation of equivalent PCT Administrative Instructions (see Annex C).

Continuations and divisionals of national stage applications are filed under 35 USC 111 and are treated as new applications. As such, this new application is required to comply with 37 C.F.R. 1.821-1.825.

The Petition asserts that compliance with the requirements of 37 C.F.R. 1.821-1.825 may be waived under exceptional circumstances and cites MPEP 2421.01. Applicants submit that requiring the present application to comply with the Sequence Listing Rules would place undue hardship on applicants because the sequence data is currently not available on any computer readable form. Applicants further submit that manually entering the formatting the numerous peptide and nucleotide sequences would require a huge expenditure of time and expense without providing commensurate benefit to either the USPTO or the public, especially in view of the fact that none of the sequences are being claimed. Finally, the petition asserts that submitting a second substitute specification would be excessively time consuming.

These arguments have been considered carefully and found to be not persuasive for the following reasons.

(1) With regard to the burden of filing a substitute specification, it is noted that compliance with the sequence requirements does not necessarily result in need for a substitute specification.

A review of the 299-page specification shows that sequences are found on pages 118 and 120, for example. Applicants may insert the SEQ ID Nos. for these sequences by replacing the text of the paragraph within which the sequence is found. Additionally, a sequence listing can be added, by amendment to the specification.

A review of the 53 drawings shows that sequences are present in Figures 5 and 52, for example. In order to comply with the sequence requirements, SEQ ID Nos. need to be added to the specification to describe those sequences recited in the Figures. This may be accomplished by filing new drawings that recite the SEQ ID Nos. Alternatively, the SEQ ID Nos. may be added as amendments to the Brief Description of the Drawings to describe the sequences in the Figures. These amendments would be similar to those which applicants have already filed as Amendment E, filed 23 June 2001 as Paper No. 16, in which portions of the Brief Description of the Drawings were amended.

As no sequences are recited in the 100-plus claims, no amendments to the claims are required for compliance to the sequence requirement.

While it is acknowledged that compliance with the sequence requirements will require a lengthy amendment, the amendment is not likely to be as extensive as the amendments already on file in this application, notable the 20 page amendment filed 23 July 2001 as Amendment E, or the 17 page amendment filed 10 October 2000 as Paper No. 11 or the 18 page Preliminary amendment filed 20 November 1998. It is difficult to argue that undue hardship would be incurred by compliance with the sequence requirements, as lengthy amendments appear to be the norm rather than an exception for this application.

(2) With regard to the difficulty of manually entering and formatting the disclosed peptide and nucleotide sequences to a computer readable form, applicants should note that the conveyance of written material to an electronic format is becoming more and more standard. Electronic scanning devices may aid applicants in their effort to convert the written sequences to a computer readable format. Further, assistance in downloading the PatentIn 3.1 software can be obtained from General Information Service at (800) 786-9199 or (703) 308-4357. Additional help related to using the PatentIn 3.1 software can be obtained by calling the PatentIn Help Line at (703) 306-4199 or by e-mail at patin3help@uspto.gov.

(3) With regard to the commensurate benefit, applicants' compliance with the sequence requirements will enable examiners to easily identify this pending application as prior art when searching other applications claiming the disclosed sequences. This benefit will be extended to the public should the application go on to issue and should the sequences be contained in the USPTO's issued sequence database. Although sequences are not currently recited in the claims, during prosecution, applicants may wish or need to include particular peptide or nucleotide sequences in the claims. Once the case goes onto to issue, surely applicants benefit by the inclusion of any disclosed or claimed sequences in the USPTO's pending and issued databases so that interfering subject matter and prior art can be easily identified. Also, a U.S. Patent is a right conveyed to applicants in exchange to disclosure of the invention. Part of applicants' disclosure is the sequences recited in the Figures and in the specification. Regardless of the whether these sequences are recited in the claims, once the application goes on to issue, the contents of the disclosure need to be made available to the public in a format amenable to searching. It has been and remains standard practice that peptide and nucleotide sequences are searched using computer readable format.

For all of these reasons compliance with the sequence requirements will not be waived for this application.

Finally, applicants may chose to delete from the specification and drawings any sequences that are not (1) recited in the claims, and (2) required for enablement, written description, new matter or priority considerations.

Related application 08/273,146, filed 14 July 1994, and issued as U.S. Patent No 5,855,885 on 5 January 1999, also claims priority to PCT/GB91/01134 and has complied with the sequence requirements. If sequences are identical between these applications, the computer readable form may be easily transferred from '146 to the '673 application using the procedures set forth in MPEP 2422.05.

Applicants are required to comply with the requirements of 37 C.F.R. 1.1821-1.825, as set forth on the letter sent 24 September as Paper No. 17.

Therefore the petition is DENIED.

Applicants remain under obligation to reply to the Office Action of 24 September 2001, within the time period set or as may be extended under 37 CFR 1.136(a).

Should there be any questions with regard to this decision, please contact Julie E. Burke, Ph.D. by letter addressed to the Group Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-7553 or by facsimile transmission at (703) 305-7939.

John Doll
Group Director
Technology Center 1600

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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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APR 22 2003

DAVID W. CLOUGH, PH.D.
KATTEN MUCHIN ZAVIS
525 WEST MONROE
SUITE-1600
CHICAGO IL 60661-3693

#33

In re Application of	:
John McCafferty et al	:
Serial No.: 09/196,673	: PETITION DECISION
Filed: November 20, 1998	:
Attorney Docket No.: 213839-00003	:

This is a response to the petition under 37 CFR 1.59(b), filed September 11, 2002, to expunge information from the above identified application. The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that a documents submitted as a Proprietary Information Disclosure Statement under a court Protective Order be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified documents are considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant upon close of prosecution. See, in general, M.P.E.P. 724.02.

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

Bruce M. Kisliuk
Director, Technology Center 1600

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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FEB 13 2006

DAVID W. CLOUGH, PH.D.
KATTEN MUCHIN ZAVIS
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SUITE-1600
CHICAGO IL 60661-3693

In re Application of	:
John McCafferty et al	:
Serial No.: 09/196,673	: PETITION DECISION
Filed: November 20, 1998	:
Attorney Docket No.: 213839-00003	:

This is a response to the petition under 37 CFR 1.59(b), filed September 11, 2002, to expunge information from the above identified application. The application has now been allowed and the petition may be reconsidered.

Petitioner requests that a documents submitted as a Proprietary Information Disclosure Statement under a court Protective Order be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The examiner has made a final determination that the material requested to be expunged does not prevent the finding of patentability of the claims. Thus, the decision on the petition to expunge can now be granted.

The petition is **GRANTED.** The confidential material is returned herewith.

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

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. 16

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

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NOV 06 2002

OFFICE OF PETITIONS

In re Application of	:	
Albert Rumbach et al	:	
Application No. 09/196,916	:	ON PETITION
Filed: November 20, 1998	:	
Attorney Docket No. 364/51	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 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 March 13, 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 June 14, 2001.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 1775.

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)
6,134,557	2000-10-17	09/197,191	1998-11-20	

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

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	/Craig E. Freeman/	Date (YYYY-MM-DD)	2008-12-06
Name	Craig E. Freeman		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6134557
Issue Date: October 17,2000
Application No. 09197191
Filed: November 20,1998
Attorney Docket No. 70764.01

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 10,2008 ,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 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 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

VIDAS ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE, SUITE 2000
MINNETONKA, MINNESOTA 55343-9185

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MAR 2 6 2004

OFFICE OF PETITIONS

In re Application of :
Brian J. Brown et al :
Application No. 09/197,278 :
Filed: November 20, 1998 :
Attorney Docket No. S63.2-6769

ON PETITION

This is a decision on the petition, filed March 11, 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 July 1, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The file will be forwarded to Technology Center AU 3731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6142946
Issue Date: November 7,2000
Application No. 09197398
Filed: November 20,1998
Attorney Docket No. ATL175

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6142946	2000-11-07	09197398	1998-11-20	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael E Marion/	Date (YYYY-MM-DD)	2009-05-18
Name	Michael E. Marion	Registration Number	32266

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 13

G.E. EHRLICH (1995) LTD.
C/O ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY
SUITE 207
ARLINGTON, VA 22202

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APR 2 3 2002

OFFICE OF PETITIONS

In re Application of
Michael Behagen et al
Application No. 09/197,441
Filed: November 23, 1998
Attorney Docket No. 1521/1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed , to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 12, 2000, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendment submitted does not *prima facie* placing the application in condition for allowance, no Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 13, 2001.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on March 4, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center 2611 for further processing.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 09/197,534 :
Filed: November 23, 1998 :
Attorney Docket No. 0756-1894 :

ON PETITION

This is a decision on the petition, filed August 2, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 24, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2823 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

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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).

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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

In re Application of :
Shunpei Yamazaki et al :
Application No. 09/197,534 : ON PETITION
Filed: November 23, 1998 :
Attorney Docket No. 0756-1894 :

This is a decision on the petition, filed January 26, 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 December 29, 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 2823 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 09/197,534	:	ON PETITION
Filed: November 23, 1998	:	
Attorney Docket No. 0756-1894	:	

This is a decision on the petition, filed August 12, 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 July 7, 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]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2823 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
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 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
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KAPLAN & GILMAN
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WOODBRIDGE, NJ 07095

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JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Gad Janay	:	
Application No. 09/197,844	:	NOTICE
Filed: November 23, 1998	:	
Attorney Docket No. 030	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 2178.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DEC 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Gad Janay	:	
Application No. 09/197,844	:	DECISION GRANTING PETITION
Filed: November 23, 1998	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 030	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of February 12, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5988097
Issue Date: November 23,1999
Application No. 09197987
Filed: November 23,1998
Attorney Docket No. F-5964-C

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 28,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 28,2007. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
5988097	1999-11-23	09197987	1998-11-23	F-5964-C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Steven Karney/	Date (YYYY-MM-DD)	2007-11-28
Name	Steven Karney		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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.: 37

DATE : 2/22/08

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

DOUGLAS W. OWENS
SUPERVISORY PATENT EXAMINER

SPE: Douglas W. Owens — Art Unit 2821

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MAR 06 2007

OFFICE OF PETITIONS

In re Patent of	:	
Colvin et al.	:	
Patent No. 6,066,160	:	
Issue Date: 05/23/2000	:	
Application No 09/198087	:	DECISION
Filing or 371(c) Date: 11/23/1998	:	ON PETITION
Title of Invention:	:	
PASSIVE KNOTLESS SUTURE	:	
TERMINATOR FOR USE IN	:	
MINAMALLY INVASIVE SURGERY AND	:	
TO FACILITATE STANDARD TISSUE	:	
SECURING	:	

This is a decision on the petition under 37 CFR § 1.378(b), to reinstate the above-identified patent, filed October 27, 2006, and supplemented December 4, 2006.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The patent issued May 23, 2000. Patentee could have paid the three and one half (3½) year maintenance fee between May 23, 2003, and November 23, 2003, without a surcharge, or within the six (6) month grace period between November 24, 2003 and May 23, 2004. Patentee failed to do so; accordingly, the patent became expired on May 24, 2004.

The instant petition

Patentee files the instant petition and explains that the law firm responsible for payment of the maintenance fee, Thelen, Reid & Priest, LLP, ("Thelen Reid"), failed to pay the maintenance fee.

Petitioner asserts that this office also failed to Notify the Patentee that the maintenance fee was due, and that this office allowed the Patentee to file amendments in the above-identified reissue application during the period after the patent had become abandoned, without notifying the Patentee that the patent had expired.

Applicable Law, Rules and MPEP

37 CFR 1.378(b) provides that a patent may be reinstated at any time following expiration of the patent for failure to timely pay a maintenance fee. A petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

> (A) the required maintenance fee set forth in 37 CFR 1.20(e)-(g);
> (B) the surcharge set forth in 37 CFR 1.20(i)(1); and
> (C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement. (Emphasis supplied).

As language in 35 U.S.C. § 41(c)(1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. See Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff 'd sub nom. Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard.

Because 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder does not constitute unavoidable delay. See Patent No. 4,409,763, supra. See also Final Rule entitled "Final Rules for Patent Maintenance Fees," published in the Federal Register at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the Official Gazette at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. Thus, evidence that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid, could be submitted in support of an argument that the delay in payment was unavoidable.

Moreover, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Opinion

Initially it is noted that, as iterated supra, under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. Accordingly, Patentee may not rely upon the failure to receive a maintenance fee reminder to justify unavoidable delay in paying the maintenance fee. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. Moreover, 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 that did not include receipt of maintenance fee reminders from this Office.

Similarly, that the Patentee was allowed to file amendments in the reexamination application after the patent had expired, and this Office failed to notify the Patentee that the patent had expired, does not amount to unavoidable delay. Applicant's assertion, that this Office failed to

notify the Patentee that the patent had expired, does not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. It is solely the responsibility of the Patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. Moreover, the patent had expired on May 24, 2004. In addition, Applicant filed amendments in the re-examination application on January 11, and June 20, 2005, several months after the patent had expired. A showing of unavoidable delay must include a showing that the failure to pay the maintenance fee was unavoidable from the time the payment was due, May 24, 2004, through the filing of a grantable petition.

Patentee is also advised that a delay caused by the actions or inactions of Patentee's voluntarily chosen representative, does not constitute unavoidable delay. Patentee asserts that Thelen Reid was responsible for payment of the maintenance fee, but failed to pay the maintenance fee. Patentee, however, may not rely upon a delay caused by the actions or inactions of Thelen Reid to support an assertion that payment of the maintenance fee was unavoidable.

Patentee alleges that it reasonably relied upon Thelen Reid to provide timely payment of the maintenance fee. However, Thelen Reid indicated to Petitioner that they were not responsible for payment of the maintenance fees, but was only empowered to act in the Re-examination proceedings for this patent. October 26, 2006 Letter from Maier & Mairer, PLLC ("Maier"), to Pepe & Hazard LLP. Applicant has also filed copies of a letter from Thelen Reid to the patentee dated July 3, 2001, wherein Thelen Reid states that it was retained only to provide litigation services related to the Patentee against Medtronic, Inc. Patentee has not provided any evidence from Thelen Reid, supporting the assertion that Thelen Reid was responsible for payment of the maintenance fee.

Finally, the petition states that on March 4, 2003, Attorney Todd Sharinn was responsible for the patent until March 4, 2003. Subsequently, on December 5, 2003, Patentee filed a Change of Attorney Docket Number and Change of Address Notice, changing the correspondence address to that of Thelen Reid. Patentee has failed to account for the period of time between March 4, 2003, when attorney Sharrin's responsibility for the patent terminated, and December 5, 2003, when Patentee filed a Change of Attorney Docket Number and Change of Address Notice. Patentee has thus failed to account for the entire delay.

Conclusion

Patentee has failed to demonstrate that the failure to pay the maintenance fee was unavoidable. The petition is dismissed.

Petitioner's current options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.[1] The petition for reconsideration should

[1] No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

be entitled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration of this decision must be accompanied by a non-refundable petition fee of $400 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Director's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to 'show' that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Director for Patents, Washington, DC, 20231. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-0025
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent of	:	
Colvin et al.	:	
Patent No. 6,066,160	:	
Issue Date: 05/23/2000	:	
Application No 09/198087	:	DECISION
Filing or 371(c) Date: 11/23/1998	:	ON PETITION
Title of Invention:	:	
PASSIVE KNOTLESS SUTURE	:	
TERMINATOR FOR USE IN	:	
MINAMALLY INVASIVE SURGERY AND	:	
TO FACILITATE STANDARD TISSUE	:	
SECURING	:	

This is a decision on the petition for reconsideration under 37 CFR § 1.378(e), to reinstate the above-identified patent, filed May 7, 2007.

The petition is **DENIED**.

Background

The patent issued May 23, 2000. Patentee could have paid the three and one half (3½) year maintenance fee between May 23, 2003, and November 23, 2003, without a surcharge, or within the six (6) month grace period between November 24, 2003 and May 23, 2004. Patentee failed to do so; accordingly, the patent became expired on May 24, 2004.

The October 27, 2006, Petition, supplemented December 4, 2006

Patentee filed a petition to reinstate the above-identified patent on October 27, 2006, and supplemented December 4, 2006, wherein Petitioner explained that the law firm responsible for payment of the maintenance fee, Thelen, Reid & Priest, LLP, ("Thelen Reid"), failed to pay the maintenance fee. Petitioner also asserted that this Office also failed to Notify the Patentee that the maintenance fee was due, and that this office allowed the Patentee to file amendments in the above-identified reissue application during the period after the patent had become expired, without notifying the Patentee that the patent had expired.

The March 6, 2007 Decision dismissing the petition

A Decision dismissing the petition was mailed on March 6, 2007. The Decision informed Petitioner that the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due, and that the lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.

The Decision also informed Petitioner that a delay caused by the actions or inactions of Patentee's voluntarily chosen representative, does not constitute unavoidable delay. Patentee asserted that Thelen Reid was responsible for payment of the maintenance fee, but failed to pay the maintenance fee. Patentee was informed that it may not rely upon a delay caused by the actions or inactions of Thelen Reid to support an assertion that payment of the maintenance fee was unavoidable.

Finally, the Decision noted that Attorney Todd Sharinn was responsible for the patent until March 4, 2003. Subsequently, on December 5, 2003, Patentee filed a "Change of Attorney Docket Number and Change of Address Notice," changing the correspondence address to that of Thelen Reid. Patentee has failed to account for the period of time between March 4, 2003, when attorney Sharrin's responsibility for the patent terminated, and December 5, 2003, when Patentee filed the "Change of Attorney Docket Number and Change of Address Notice." Patentee had thus failed to account for the entire delay.

The present petition for reconsideration

Preliminary issues

Petitioner files the present petition for reconsideration and initially requests clarification as to whether the renewed petition may be filed under 37 CFR 1.137 or 1.378(b), and whether extensions of time are available?

Petitioner is advised that, as language in 35 U.S.C. § 41(c)(1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. *See Ray v. Lehman*, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting *In re Patent No. 4,409,763*, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff'd sub nom. Rydeen v. Quigg*, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd, 937 F.2d 623 (Fed. Cir. 1991) (table), *cert. denied*, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard. Regarding whether extensions of time were available, the applicable rule, 37 CFR 1.378(e), states:

> Reconsideration of a decision refusing to accept a maintenance fee upon petition filed pursuant to paragraph (a) of this section may be obtained by filing a petition for reconsideration within two months of, or such other time as set in the decision refusing to accept the delayed payment of the maintenance fee.

The Decision set a two (2) month period for reply, and Petitioner timely filed the present request for reconsideration.

Petitioner also takes issue with the statement in the petition that the showing of unavoidable delay must include the showing from the time the payment was due, May 24, 2004, through the filing of a grantable petition. Petitioner asserts that May 24, 2004 was the date that the patent expired, not the date that the payment was due. Petitioner asserts that the error in the citing of the significance of these dates renders the entire decision subject to question.
As Petitioner correctly notes, May 24, 2004 was the date that the patent expired. Petitioner is advised that, had the payment been received on May 23, 2004, the patent would not have expired. While the three and one-half (3½) year maintenance fee due date is the date the maintenance fee is to be paid, this Office extends a six (6) month grace period such that the patent does not expire until six (6) months after the due date. "Unless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period." See 35 U.S.C. § 41(b)

Further to this, 37 CFR 1.378, Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent, states:

(a) The Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable (paragraph (b) of this section) or unintentional (paragraph (c) of this section) and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee.

Finally, 37 CFR 1.137, Revival of abandoned application, terminated reexamination proceeding, or lapsed patent, states in relevant part that the showing required must include (a) (3) A showing to the satisfaction of the Director 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;

Accordingly, the showing of unavoidable delay required under 37 CFR 1.378(b) runs from the due date for the reply – the day after which the patent is expired - to the filing of a grantable petition.

Petitioner next disagrees with the Decision's conclusion that Sharinn's responsibility concluded on March 4, 2003, and that there is no objective evidence to support this conclusion.

A review of the Supplement to Petition filed December 24, 2006 reveals that Petitioner herein filed a Statement in Support of Petition Under 37 C.F.R. 1.378(b) executed by Todd Sharinn wherein Mr. Sharinn states on page two that

> [m]y responsibility, including the payment of any maintenance fee that may become due, for the subject patent ended prior to the date where payment of a first maintenance fee was due as evidenced by the enclosed Revocation of Prior Powers of Attorney signed on

the behalf of Quickie, LLC, on March 4, 2003 wherein 'all powers of attorney previously given [were] hereby revoked.'

Statement of Mr. Sharinn at p.2.

The patent expired on March 24, 2004. The relevant period is the period between March 24, 2004 and the filing of a grantable petition.

The response to the Decision

As to the Decision, Petitioner states that the delay was unavoidable because at all relevant times, Thelen held Petitioner's general power of attorney and Greenberg/Sharinn were the designated recipients of all office communications concerning maintenance fees on the '160 Patent. In light of these facts, Petitioner states that "it is self-evident that Petitioner was reasonably looking to its outside counsel to handle maintenance fees on the patent, and thus the failure to pay the maintenance fees was unavoidable to petitioner." Request for Reconsideration at p.4.

Petitioner asserts that the responsibility to present a complete record due to the failure to obtain the client files and other documents related to the representation of his client Thelen and Greenberg fall squarely at the feet of Thelen and Greenberg. Petitioner requests, at a minimum, additional time to produce documents from Thelen and Greenberg.

Applicable Law, Rules and MPEP

37 CFR 1.378(b) provides that a patent may be reinstated at any time following expiration of the patent for failure to timely pay a maintenance fee. A petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

(A) the required maintenance fee set forth in 37 CFR 1.20(e)-(g);
(B) the surcharge set forth in 37 CFR 1.20(i)(1); and
(C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement. (Emphasis supplied).

As language in 35 U.S.C. § 41(c)(1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. See Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff 'd sub nom. Rydeen v. Quigg, 748 F. Supp. 900,

16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992)). See MPEP § 711.03(c) for a general discussion of the "unavoidable" delay standard.

Because 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder does not constitute unavoidable delay. See Patent No. 4,409,763, supra. See also Final Rule entitled "Final Rules for Patent Maintenance Fees," published in the Federal Register at 49 Fed. Reg. 34716, 34722-23 (August 31, 1984), and republished in the Official Gazette at 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984). Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. Thus, evidence that despite reasonable care on behalf of the patentee and/or the patentee's agents, and reasonable steps to ensure timely payment, the maintenance fee was unavoidably not paid, could be submitted in support of an argument that the delay in payment was unavoidable.

Moreover, the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Opinion

Petitioner/Patentee is advised that it is immaterial to reinstatement of the patent as to whether the actions or inactions of Thelen, Greenberg, Sharinn, or any other voluntarily chosen representative of the Patentee resulted in the failure to timely pay the maintenance fee. A delay caused by the actions or inactions of Patentee's voluntarily chosen representative, does not constitute unavoidable delay. Patentee may not rely upon a delay caused by the actions or inactions of a voluntarily chosen representative to support an assertion that payment of the maintenance fee was unavoidable. As the court stated in Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987), Plaintiff

> cannot, however, ask the court to overlook Attorney Knoblock's action or inaction with regard to the patent application. He hired Knoblock to represent him; Knoblock's actions must be imputed to him. *Link v. Wabash Railroad Co., 370 U.S. 626, 633-34, 82 S. Ct. 1386, 1390-91, 8 L. Ed. 2d 734 (1962)* ("Petitioner voluntarily chose his attorney as his representative in the action and he cannot now avoid the consequences of the acts or omissions of this freely selected agent . . . . Each party is deemed bound by the acts of his lawyer-agent and is considered to have 'notice of all facts, notice of which can be charged upon the attorney.'"); *Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983)* ("Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be bound to counsel's actions."). See also, e.g., *Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).*

Lastly, as to Petitioners request for, at a minimum, additional time to produce documents from Thelen and Greenberg Petitioner is advised that, as stated in 37 CFR 1.378(e), "[a]fter the decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director."

Decision

The instant petition under 37 CFR 1.378(e) is granted to the extent that the decision of March 6, 2007 has been reconsidered; however, the renewed petition to accept under 37 CFR 1.378(e) the delayed payment of a maintenance fee and reinstate the above-identified patent is **DENIED**.

This patent file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Mailed

MAY 2 5 2001

Technology Center 2100

Paper No. 18

David B. Ritchie
D'Allesandro and Ritchie
P.O. Box 640640
San Jose, California 95164-0640

In re Application of:	)	
Sunil K. Chandrupatala et al.	)	
Application No.: 09/198,590	)	
Filed: November 23, 1998	)	**DECISION ON PETITION UNDER 37**
For: AGGREGATION OF USER USAGE	)	**C.F.R. § 1.181 TO WITHDRAW**
DATA FOR ACCOUNTING SYSTEMS	)	**HOLDING OF ABANDONMENT**
IN DYNAMICALLY CONFIGURED	)	
NETWORKS	)	

This is a decision on the petition filed March 19, 2001 under 37 CFR § 1.181 to a withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Office Action mailed May 10, 2000 (Paper No. 11). A Notice of Abandonment was mailed February 12, 2001 (Paper No. 16).

In support of the petition, Petitioner provides a copy of (1)a request for filing of a Continuing Prosecution Application under 37 CFR 1.53(d) carrying an Express mailing label establishing the date of filing as August 31, 2000, (2) a Petition for a one month extension of time, (3) copies of checks for the requisite extension fee of $110.00 (No. 10156), CPA filing fee of $690.00 (No.10154), and $798.00 for additional claims (No. 10155) and (4) a post card with a PTO stamp indicating receipt at the USPTO on August 31, 2000. The fee payments have been posted to the application.

A review of the file record indicates that a response was filed on August 31, 2000. Therefore, the record is clear that the application was ***not abandoned in fact*** and a Notice of Abandonment should not have been issued. Therefore, the petition is **GRANTED**. The Notice of Abandonment is withdrawn.

The office regrets any inconvenience caused by the precipitate mailing of the Notice of Abandonment.

The application file is being forwarded to the Technology Center support staff for processing of the request for a CPA. The file will then be forwarded to the Examiner for appropriate action.

Margaret A. Focarino

for John J. Love, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

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. 6724890
Issue Date: April 20,2004
Application No. 09198782
Filed: November 24,1998
Attorney Docket No. 021223.0123

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 17,2008 ,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 June 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.

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)
6,724,890	2004-04-20	09/198,782	1998-11-24	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Jannette T. Duncan/	Date (YYYY-MM-DD)	2008-06-16
Name	Jannette T. Duncan, Managing Partner		
Enter Reel and Frame Number		Remove	
Reel Number	021050	Frame Number	0824
Enter Reel and Frame Number		Remove	
Reel Number	010572	Frame Number	0578
Enter Reel and Frame Number		Remove	
Reel Number	021018	Frame Number	0897
Enter Reel and Frame Number		Remove	
Reel Number	021018	Frame Number	0915
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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

DEC 27 2000

#8

In re application of:
Yoshinobu Kaneyama
Serial No: 09/198,849

Filed: November 24, 1998

For: Device Mounting Method

DECISION
ON
PETITION

This is a decision on the Petition to Withdraw the Holding of Abandonment filed November 27, 2000 under 37 CFR 1.181. The petition requests withdrawal of the holding of abandonment for failure to respond to the office action mailed March 28, 2000 as set forth in the Notice of Abandonment mailed November 6, 2000.

DECISION

A review of the petitioner's request and evidence indicates that the request has merit. The evidence presented is sufficient to establish that a timely response was filed to the office action of March 28, 2000. The evidence includes a postcard receipt; a copy of the certificate of mailing for the paper in question and a copy of the originally filed amendment.

The Notice of Abandonment of November 6, 2000 is hereby vacated and the application restored to pending status. The application will be forwarded to Technology Center 1700's Technical Support Staff for processing of the amendment. It is noted that this abandonment resulted from an office error and that as such no fee is due.

The petition is **GRANTED.**

Richard V. Fisher

RICHARD V. FISHER, DIRECTOR
TECHNOLOGY CENTER 1700
CHEMICAL AND MATERIALS ENGINEERING

Ostrolenk, Faber, Gerb & Soffen, LLP
1180 Avenue of the Americas
New York, New York 10036-8403

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Paper No. 29

Nutter McClennen & Fish
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

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MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of
Richard A. Mathies et al. :
Application No. 09/199,655 : ON PETITION
Filed: November 25, 1998 :
Attorney Docket No. 104464-0002 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 27, 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 28, 2002.

The application file is being forwarded to Technology Center AU 1743 for processing the Request for Continued Examination under 37 CFR 1.113 filed with the instant petition.

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

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Paper No. 30

Nutter McClennen & Fish, LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02210-2604

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JUN 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Richard A. Mathies et al. :
Application No. 09/199,655 : ON PETITION
Filed: November 25, 1998 :
Attorney Docket No. 104464-0002 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application. The decision mailed March 24, 2003 is vacated.

The petition is **DISMISSED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed November 27, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 28, 2002.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) were filed with the petition to revive on January 29, 2003. The request however, lacks the submission required by 37 CFR 1.114. A submission as used in 37 CFR 1.114 includes, but is not limited to, an information disclosure statement, an amendment to the written descriptions, claims, new arguments, or new evidence in support of patentability. See 37 CFR 1.114(c) and MPEP Section § 706.07(g).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
PO Box 1450
Arlington, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 30

Nutter McClennen & Fish, LLP
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JUN 1 3 2003

OFFICE OF PETITIONS

In re Application of :
Richard A. Mathies et al. :
Application No. 09/199,655 : ON PETITION
Filed: November 25, 1998 :
Attorney Docket No. 104464-0002 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 29, 2003, to revive the above-identified application. The decision mailed March 24, 2003 is vacated.

The petition is **DISMISSED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed November 27, 2001, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 28, 2002.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) were filed with the petition to revive on January 29, 2003. The request however, lacks the submission required by 37 CFR 1.114. A submission as used in 37 CFR 1.114 includes, but is not limited to, an information disclosure statement, an amendment to the written descriptions, claims, new arguments, or new evidence in support of patentability. See 37 CFR 1.114(c) and MPEP Section § 706.07(g).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
PO Box 1450
Arlington, VA 22313-1450

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ATTENTION: MICHAEL VERGA
JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX VA 22030

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Richard A. Mathies et al. :
Application No. 09/199,655 : ON PETITION
Filed: November 25, 1998 :
Attorney Docket No. 104464–0002 :

This is a decision on the renewed petition, filed September 1, 2005 under 37 CFR 1.137(b), to revive the above-identified application.[1]

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed November 27, 2001. An amendment, filed January 30, 2002, was considered and the applicant was advised in an advisory action mailed February 5, 2002, that the amendment did not place the application in condition for allowance. Subsequent responses filed February 19, 2002 and March 11, 2002 were filed and considered but not entered. An advisory action and a Notice of Abandonment were both mailed August 22, 2002. A petition to revive filed January 29, 2003 was filed and granted in a decision mailed March 24, 2003. However, a Notice of Improper RCE was mailed June 9, 2003 and as a result the decision vacating the previous grant was mailed June 13, 2003.

Comes now petitioner with this renewed petition.

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, but must be the payment of the issue fee or any outstanding balance thereof

[1]The instant petition shows proof, by certificate of mail, that the petition to revive was filed in response to a decision vacating a previous grant on October 14, 2003, but was not associated with the file.

in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

A Request for Continued Examination (RCE) and an amendment have been submitted in response to the Final Office action and in compliance with 37 CFR 1.114. The RCE fee was applied on January 29, 2003.

The application is being forwarded to Technology Center 1743 for processing of the RCE and amendment.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Paper No: 10

Ira S. Dorman
330 Roberts Stree, Suite 200
East Hartford, CT 06108

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FEB 4 2002

OFFICE OF PETITIONS

In re Application of:
Rosenthal et al
Filed: 25 November 1998 :
Application No. 09/199,677 :
Attorney Docket No. OLT-20 : ON PETITION
For: THERMAL IMAGING FOR :
SEMICONDUCTOR PROCESS :
MONITORING

This is a decision on the petition filed on December 7, 2001, under 37 C.F.R. §1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely and properly file a response to a non-final Office Action as required in the Office Action, mailed January 26, 2001. A shortened statutory period for response was set to expire at three (3) months.[1] No reply was received within this time period.[2] Therefore, this application became abandoned for failure to timely file a proper reply as of April 26, 2001.[3]

A reply, the instantly filed amendment, in response to the Office Action of January 24, 2001 was filed on December 7, 2001 in conjunction with a Petition for Revival under 37 C.F.R. §1.137(b).

All other requirements for the filing of a grantable petition under 37 C.F.R. §1.137 have been met. Therefore, *this petition is* ***granted***.

This application will be forwarded to Technology Center 2800 for further processing.

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[1] 35 U.S.C. §133 and MPEP 710.02(b).

[2] Nor were any requests for extensions of time to respond to the non-final action received.

[3] 35 U.S.C. §133, 37 C.F.R. §1.134-136.

Telephone inquiries concerning this matter may be directed to Susan Ungar, Ph. D. at (703) 305-1645.

Scott Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Offic
ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231 JUN 8 2000

Paper No. 11

Appl No.: 09/199,816
SHIMADA et al
Filed: November 25, 1998
For: INK JET RECORDING HEAD AND INK JET RECORDER

DECISION ON PETITION UNDER *37 CFR 1.48*

This is a decision on the petition under 37 CFR 1.48, filed September 1, 1999.

The petition is **GRANTED.**

The inventorship in this application has been corrected to include Shiro Yazaki as a co-inventor.

The application is being returned to the Office of Initial Patent Examination for correction of the file jacket and issuance of a corrected filing receipt, with the names of the inventors as shown on the executed declaration under 37 CFR 1.63 on September 1, 1999.

John E Barlow, Jr
Supervisory Patent Examiner,
Art Unit 2853,
Patent Examining Group 2800

Ray Heflin
SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3202

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

#6

NOV 02 2000

In Re Application of:

Serial No.: 09/199,854	:	DECISION ON
Filed: November 25, 1998	:	PETITION
For: Uterine Contraction Detection And Initiation System And Method	:	

This is a decision on applicant's request filed September 01, 2000 to withdraw the holding of abandonment, mailed June 30, 2000, for failure to timely respond to the Office action dated November 09, 1999.

In support of the request, applicant has submitted a copy of a request for a three month extension of time and a response with a certificate of mailing dated May 05, 2000. Applicant has also submitted a declaration attesting to the timely mailing as required by 37 CFR 1.8(b).

In view of the above, the Notice of Abandonment mailed June 30, 2000 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary : Holding of Abandonment Withdrawn.

John Kittle, Director
Director, Technology Center 3700
Mechanical Engineering, Manufacturing
and Products (703) 308-0873

JK:ao

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 14 2001

Locke, Liddell & Sapp LLP
Attn: IP Docket Clerk
600 Travis Street
Suite 3400
Houston TX 77002-3095

Paper No. 12

In re Application of	:	
John M. Adams	:	DECISION ON PETITION
Serial No. : 09/199,854	:	TO WITHDRAW
Filed : November 25, 1998	:	HOLDING OF
For : Uterine Contraction Detection and Initiation System And Method	:	ABANDONMENT

This is a decision on petitioner's request filed October 12, 2001 to review the holding of abandonment mailed September 5, 2001 for failure to respond to the Office action mailed November 2, 2000. The basis for the request is that applicant did not receive an Office action mailed November 2, 2000. In fact, applicant surmises that no such Office action was ever issued.

A review of the application reveals that a decision on a prior petition to withdraw a holding of abandonment was mailed to applicant on November 2, 2000 indicating that the holding of abandonment made in a Notice of Abandonment mailed June 30, 2000 was being withdrawn. Applicant had provided the necessary evidence to show that a reply to an Office action mailed November 9, 1999 had been filed on May 5, 2000. The decision of November 2, 2000 stated that upon the mailing of the decision, the application would be forwarded to the Examiner for appropriate action. However, the file does not show that the examiner has taken any action.

In view of these facts, the Notice Of Abandonment mailed September 5, 2001 for failure to reply to the Office action of November 2, 2000 is in error as no Office action has been issued in response to the amendment filed May 5, 2000. The holding of abandonment is hereby withdrawn. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for entry of the May 5, 2000 amendment, and thereafter to the Examiner for issuance of an action in response to the amendment.

Summary: Holding of Abandonment Rescinded.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/11/5/01

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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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OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Gino V. Segre et al	:	
Application No. 09/199,874	:	ON PETITION
Filed: November 24, 1998	:	
Attorney Docket No. 00786071005	:	

This is a decision on the petition, filed March 23, 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 November 5, 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 1646 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

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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).

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 14

JACQUES M DULIN
Innovation Law Group, Ltd.
224 W. Washington St.
NetPort Center, Suite 201
Sequim, WA 98382-3338

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NOV 22 2004

OFFICE OF PETITIONS

In re Application of :
Weiglhofer et al. :
Application No. 09/199,188 :
Filed: November 24, 1998 : ON PETITION
Title of Invention: :
3D STEREO REAL-TIME SENSOR :
SYSTEM, METHOD AND COMPUTER :
PROGRAM THEREFOR :

This is a decision on the petition under 37 CFR 1.137(a), filed August 10, 2004, to revive the above-identified application based upon unavoidable abandonment of the application, and on the alternative petition under 37 CFR 1.137(b), based upon unintentional abandonment.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Applicant is given TWO (2) 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 1.37"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO petitions Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Notice of Allowability, mailed February 14, 2001. The Notices set a non-extendable statutory period for reply of three (3) months. No reply having been received, the above-identified application

became abandoned May 15, 2001. A Notice of Abandonment was mailed on April 29, 2004.

Applicable Law

Petition under 37 CFR 1.137(a) for unavoidable abandonment

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 met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**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 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1]35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

those provisions is entitled to considerable deference." 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, 1425, 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 Defense 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.")).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat.

1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3] The statute requires a "showing"

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[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted

by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

The instant petition

Applicant files the instant petition and avers that the Office improperly abandoned the application. The Office mailed a Notice of Allowance and Notice of Allowability on October 2, 2000. In response to the Notices, Applicant filed a CPA on December 18, 2000, in order to bring to the attention of the Examiner an Information Disclosure Statement ("IDS"). Applicant

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the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

alleges that the application should not have been abandoned because of the CPA filing.

Analysis of the instant petition

As to item (1), Applicant has failed to submit the required reply. Here, the required reply consists of the issue fee and corrected drawings. The Office received formal drawings after the application was abandoned, on March 16, 2001; however, a review of the application file and of the instant petition reveal that there is no authorization to charge the issue fee to deposit account 04-1699. A review of the application transmittal documents filed with the application on November 24, 1998, reveal an authorization to charge deposit account 08-1641 the issue fee; however, it is noted that Applicant has changed correspondence addresses and provided a new and different deposit account number. The new deposit account number has apparently replaced deposit account number 08-1641, as Applicant states in the correspondence address change that "[o]ur deposit account is No. 04-1699.". No authorization to charge the issue fee to deposit account no. 04-1699 has been provided.

As to item (3) Applicant has not provided an adequate showing of unavoidable delay. Applicant apparently misunderstood the Notice of Abandonment mailed June 18, 2001, as referencing the October 2, 2000 Notice of Allowance and Notice of Allowability[4]. A review of Office records reveal that, in response to the CPA, Applicant received Notices of Allowance and of Allowability, mailed February 14, 2001. Applicant is advised that it is the failure to timely and properly respond to these February 14, 2001, Notices that resulted in the Abandonment of the application, and not the failure to respond to the Notices mailed October 2, 2000. A review of the application file and the Notice of Allowability reveal, while an authorization to charge Applicant's deposit account, no. 08-1641, was in the application file, applicant failed to timely submit formal drawings in response to the Notice of Allowability.

Finally, applicant requests an extension of the patent term; however, the application was properly held abandoned by this

[4] Applicant states in the petition that, "[i]n lieu of paying the issue fee for this application due Jan. 2, 2001, Applicants filed a CPA Application on December 18, 2000 in order to bring to the attention of the Examiner references cited in the EP Search Report in connection with the parent priority application." The Notice of Allowance mailed October 2, 2000 required payment of the issue fee not later that Jan. 2, 2001, in order to avoid abandonment.

Office. It was applicant's misunderstanding of the Notice of Abandonment, and subsequent failure to investigate the Notice of Abandonment, which led substantially to the period of abandonment herein.

Applicant is reminded that a delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

Conclusion

Accordingly, the application remains abandoned and the requirement for the issue fee remains outstanding.

Petition under 37 CFR 1.137(b) for unintentional abandonment

A grantable petition under 37 CFR 1.137(b)[5] must be accompanied by: (1) the required reply,[6] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). (Emphasis supplied).

Applicant lack item (1). For reasons noted *supra*, Applicant has failed to file the required reply: the issue fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

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[5] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[6] 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.

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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Innovation Law Group, Ltd.
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Sequim, WA 98382-3338

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FEB 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Weiglhofer et al. :
Application No. 09/199,888 :
Filed: November 24, 1998 : ON PETITION
Title of Invention: :
3D STEREO REAL-TIME SENSOR :
SYSTEM, METHOD AND COMPUTER :
PROGRAM THEREFOR :

This is a decision on the Request for Reconsideration of Petition for Revival Under 37 CFR 1.137(a)petition under 37 CFR 1.137(a), filed August 10, 2004, to revive the above-identified application based upon unavoidable abandonment of the application, and on the alternative petition under 37 CFR 1.137(b), based upon unintentional abandonment.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Notice of Allowability, mailed February 14, 2001. The Notices set a non-extendable statutory period for reply of three (3) months. No reply having been received, the above-identified application became abandoned May 15, 2001. A Notice of Abandonment was mailed on April 29, 2004.

Applicant filed petitions under 37 CFR 1.137(a) and (b), to revive the application based upon unavoidable and unintentional abandonment respectively. Applicant asserted that the Office improperly abandoned the application. The Office mailed a Notice of Allowance and Notice of Allowability on October 2, 2000. In response to the

Notices, Applicant filed a CPA on December 18, 2000, in order to bring to the attention of the Examiner an Information Disclosure Statement ("IDS"). Applicant alleges that the application should not have been abandoned because of the CPA filing.

The petitions were dismissed because Office records revealed that, in response to the CPA, Applicant received Notices of Allowance and of Allowability, mailed February 14, 2001. Applicant was advised that it was the failure to timely and properly respond to the February 14, 2001, Notices that resulted in the Abandonment of the application, and not the failure to respond to the Notices mailed October 2, 2000. A review of the application file and the Notice of Allowability reveal, while an authorization to charge Applicant's deposit account, no. 08-1641, was in the application file, applicant failed to timely submit formal drawings in response to the Notice of Allowability.

Petition under 37 CFR 1.137(a) for unavoidable abandonment

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 met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**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 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks items (1) and (3).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1] 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee ... at any time ... if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, ... the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.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, 1425, 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 Defense 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.")).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of

[1] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[3] The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

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[2] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Finally, a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c).

The instant Requests for Reconsideration

Applicant files the instant requests for reconsideration and as an initial matter, notes that the Decision dismissing the petitions, mailed November 22, 2004, references as part of a response to the dismissal, that the reply may include an oath or declaration executed by the non-signing inventor. Applicant is advised that this sentence is the result of a transcription error and should not have been included in the Decision dismissing the petitions.

Regarding the merits of the abandonment of the application and its revival, Applicant avers that the Notices mailed February 14, 2001, were mailed to the wrong address. Applicant states the CPA, filed December 18, 2000 included clear instructions to address all future correspondence to a new correspondence address.

Analysis of the instant petition

A review of the application file and of the CPA filing reveal that the CPA filing consisted of four (4) pages. On page three (3) of the filing Applicant included the request to address all future written and telephone correspondence to a new correspondence address and/or telephone number.

Applicable Law

Applicant is advised that 37 CFR § 1.4, Nature of correspondence and signature requirements, provides that

> (c) [s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

37 CFR § 1.4(c)

In this instance, page three was a continuation of page two under the heading of "Further Instructions and Information:",

under which included, just prior to listing the instructions regarding the correspondence address and/or telephone number, information regarding a priority claim. The heading was in bold letters and underlined.

The instructions regarding the correspondence address and/or telephone number were emboldened but not underlined.

Immediately after the instructions regarding the correspondence address and/or telephone number, Applicant included a heading on page three entitled "Fee Payment and Deposit Account Information". Again, the heading was in bold letters and underlined. Page three continued on listing fee payment information.

Here, Applicant failed to comply with 37 CFR 1.4(c) and present each distinct subject, inquiry or order in a separate paper.

As to item (3), Applicant has not provided an adequate showing of unavoidable delay. Applicant is reminded that a "delay (in responding) resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or MPEP, [] does not constitute unavoidable delay." MPEP 711.03(c). Applicant failed to comply with 37 CFR 1.4(c) and present each distinct subject, inquiry or order in a separate paper.

Conclusion

Accordingly, the petition under 37 CFR 1.137(a) is dismissed.

Petition under 37 CFR 1.137(b) for unintentional abandonment

With the instant petition Applicant has submitted the issue fee and corrected formal drawings were filed March 16, 2001. Deposit account 04-1699 has been charged $700.00 for the issue fee as authorized in the instant petition.

Request for Adjustment of Patent Term

Applicant also requests an adjustment of the patent term under 35 U.S.C. § 154(b). Applicant is advised that Patent Term Extensions (as opposed to patent term adjustments) are available for applications filed after June 8, 1995 and before May 29, 2000. The appropriate avenue for relief is via a petition under 37 CFR 1.181. The MPEP provides

> If applicant disagrees with the patent term extension information printed on the Notice of Allowance and Fee(s)Due, applicant may request review by way of a petition under 37 CFR 1.181. To avoid loss of patent term, however, any such petitions filed during the pendency of the application will not be decided until after issuance of the patent.

MPEP 2720

A review of the Notice of Allowance and Issue Fee Due, mailed February 15, 2001, indicates a 35 U.S.C. [§] 154(b) patent term extension of 0 days. As noted above, Applicant should file a petition under 37 CFR 1.181 requesting review of the patent term. Accord 37 CFR 1.4(c). The petition will not be decided until after issuance of the patent.

Accordingly, the request for an adjustment to the patent term is **dismissed as inappropriate**.

This application is being forwarded to Publishing Division for processing into a patent.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Attorney/Advisor
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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JEFFREY S STANDLEY ESQ
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495 METRO PLACE SOUTH
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COPY MAILED

JAN 18 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Burt and Terc
Application No. 09/199,933
Filed: November 25, 1998
For: Seawall Panel

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition For Filing By Other Than All the Inventors Under 37 CFR 1.47(a)," filed April 5, 1999.

The petition is granted.

Petitioner has shown that the non-signing inventor has been presented with the application papers and has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a).

This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to Group Art Unit 3672.

Telephone inquiries regarding 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Miguel Terc
1266 W. Paces
Ferry Road Suite 134
Atlanta GA 30327

COPY MAILED

JAN 18 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Burt and Terc
Application No. 09/199,933
Filed: November 25, 1998
For: Seawall Panel

Dear Mr. Terc:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to 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
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

JEFFREY S STANDLEY ESQ
STANDLEY & GILCREST
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5946092
Issue Date: August 31,1999
Application No. 09200206
Filed: November 25,1998
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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.

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)
5946092	1999-08-31	09/200,206	1998-11-25	30082/12:1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul S. Angello/	Date (YYYY-MM-DD)	2007-09-07
Name	Paul S. Angello	Registration Number	30991

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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)
6,144,747	2000-11-07	09200396	1998-11-24	OXMO-24,534

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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 J. Arnott, Reg. # 39,095/	Date (YYYY-MM-DD)	2010-06-01
Name	JOHN J. ARNOTT	Registration Number	39095

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6144747
Issue Date: November 7,2000
Application No. 09200396
Filed: November 24,1998
Attorney Docket No. OXMO-24.534

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 1,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 1,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6,058,744	2000-05-09	09/200,529	1998-11-26	TAIW 985

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/SMR/	Date (YYYY-MM-DD)	2008-11-17
Name	Steven M. Rabin	Registration Number	29102

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6058744
Issue Date: May 9,2000
Application No. 09200529
Filed: November 26,1998
Attorney Docket No.

:

: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

QWEST COMMUNICATIONS INTERNATIONAL INC
LAW DEPT INTELLECTUAL PROPERTY GROUP
1801 CALIFORNIA STREET, SUITE 3800
DENVER, CO 80202

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of :
Curtis L. Ashton, et al :
Application No. 09/200,631 : ON PETITION
Filed: November 30, 1998 :
Attorney Docket No. 1569/1570 :

This is a decision on the petition, filed March 24, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Chad E. King 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. King 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.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Drawing Inconsistency with Specification mailed January 26, 2006. This decision precedes the mailing of a Notice of Abandonment.

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 is being referred to the Publishing Division for consideration of the amendment filed March 24, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHAD E. KING
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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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Cohen Tauber Spievack and Wagner
420 Lexington Avenue
Suite 2400
New York, NY 10170

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OFFICE OF PETITIONS

In re Application of	:	
Benneker et al	:	
Application No. 09/200,743	:	DECISION ON PETITION
Filed: November 30, 1998	:	
Attorney Docket No. 116.065	:	

This is a decision on the petition under 37 CFR 1.182, filed, November 22, 2006, to withdraw the Terminal Disclaimer dated January 31, 2001.

The petition is **DISMISSED**.

In response to a final office action dated May 4, 2000, applicant filed a Continuing Prosecution Application (CPA) in November 27, 2000. Subsequently, and before an office action was issued by the examiner, applicant on January 31, 2001, filed additional papers, including a Terminal Disclaimer. Specifically, applicant submitted a Terminal Disclaimer over Benneker et al patent 5,874,447 which issued from the grandparent of the instant application. Applicant's remarks reasoned that the Terminal Disclaimer avoids any issue of obviousness double patenting between claim 7 of the patent and claim 39 of the instant application. On February 13, 2001, the Terminal Disclaimer was approved. On May 31, 2001, applicant canceled claim 39 of the instant application without prejudice or disclaimer of the subject matter thereof.

On August 1, 2001, the examiner advised applicant that the application was allowable, but for the suspension of the case for a potential Interference, an Interference which was concluded in applicant's favor on May 25, 2004. Upon return of the case from the Board of Appeals and Interferences, applicant submits this 37 CFR 1.182 petition to withdraw the Terminal Disclaimer on the position that since the subject matter of claim 39 has been canceled, there is no longer a need for the Terminal Disclaimer.

Since no obviousness double patenting rejection was given during the prosecution, assessment of the current claims against applicant's patent 5,874,447 by the examiner of record was necessary. Upon inquiry, the current assessment by the examiner reasons that the Terminal Disclaimer

remains necessary. In particular, the examiner has concluded that the Terminal Disclaimer should not be removed because the narrow, instantly claimed process, would be fully embraced by the process allowed in patent 5,874,447. The examiner reasoned that comparing claim 32 of the application with claim 1 of the patent the instant application represent a species of the issued genus, hence necessitating the presence of the Terminal Disclaimer in this application.

There are at least two reasons for insisting upon a terminal disclaimer to overcome a nonstatutory double patenting rejection in a continuing application subject to a 20-year term under 35 U.S.C. 154(a)(2). First, 35 U.S.C. 154(b) includes provisions for patent term extension based upon prosecution delays during the application process. Thus, 35 U.S.C. 154 does not ensure that any patent issuing on a continuing utility or plant application filed on or after June 8, 1995 will necessarily expire 20 years from the earliest filing date for which a benefit is claimed under 35 U.S.C. 120, 121, or 365(c). Second, 37 CFR 1.321(c)(3) requires that a terminal disclaimer filed to obviate a nonstatutory double patenting rejection based on commonly owned conflicting claims include a provision that any patent granted on that application be enforceable only for and during the period that the patent is commonly owned with the application or patent which formed the basis for the rejection.

Second, 37 CFR 1.321(c)(3) requires that a terminal disclaimer filed to obviate a nonstatutory double patenting rejection based on commonly owned conflicting claims include a provision that any patent granted on that application be enforceable only for and during the period that the patent is commonly owned with the application or patent which formed the basis for the rejection. 37 CFR 1.321(d) sets forth the requirements for a terminal disclaimer where the claimed invention resulted from activities undertaken within the scope of a joint research agreement. These requirements serve to avoid the potential for harassment of an accused infringer by multiple parties with patents covering the same patentable invention. See, e.g., In re Van Ornum, 686 F.2d 937, 944-48, 214 USPQ 761, 767-70 (CCPA 1982). Not insisting upon a terminal disclaimer to overcome a nonstatutory double patenting rejection in an application subject to a 20-year term under 35 U.S.C. 154(a)(2) would result in the potential for the problem that 37 CFR 1.321(c)(3) was promulgated to avoid.

In view of the above, the petition under § 1.182 to withdraw the Terminal Disclaimer cannot be granted.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Technology Center 1600 for further processing.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Thurman K. Page at (571) 272-0602.

Brian Hearn
Petition 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

Cohen Tauber Spievack and Wagner
420 Lexington Avenue
Suite 2400
New York, NY 10170

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APR 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Benneker et al	:	
Application No. 09/200,743	:	DECISION ON PETITION
Filed: November 30, 1998	:	
Attorney Docket No. 116.065	:	

This is a decision on the renewed petition filed September 18, 2007, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed January 30, 2001 be withdrawn.

The petition is **GRANTED**.

Petitioners assert that, as the claims for which the aforementioned terminal disclaimer was originally proffered have now been cancelled to remove the basis for the previous obviousness-type double patenting rejection, there is no further need for the disclaimer to remain recorded against this application. The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioners' assertion. Specifically, the petitioner has cancelled claim 32. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

Telephone inquiries related to this decision should be addressed to Thurman K. Page at (571) - 272-0602.

This application has been forwarded to TC1600 for further processing.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Benneker et al.	:	
Application No. 09/200,743	:	LETTER REGARDING
Filed: November 30, 1998	:	PATENT TERM ADJUSTMENT
Atty Docket No. 091856-0111	:	

This is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed October 1, 2008. Pursuant to their duty of candor and good faith to the Office, applicants disclose that the initial determination of patent term adjustment under 35 USC 154(b) disagrees with their calculation.

The request for review of patent term adjustment is **GRANTED**.

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 two thousand fifty-seven (2057) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 19, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application[1]. The Notice stated that the patent term adjustment (PTA) to date is 3148 days. Applicants do not state

[1] By virtue of the filing of a continued prosecution application (CPA) filed under 37 CFR 1.53(d) on November 27, 2000, the application became entitled to the benefits of the patent term adjustment provisions of 35 U.S.C. 154(b) and 37 CFR 1.702 through 1.705.

a basis for their assertion that their patent term adjustment calculation disagrees with the Office's calculation.

Nonetheless, a review of the record reveals a basis for correction. 37 CFR 1.702(a)(3) provides that the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

> Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application;

37 CFR 1.703(a)(5) provides that:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

As stated in the Final Rule[2] and in pertinent part in MPEP 2731,

> For a Board of Patent Appeals and Interferences decision to be a "decision by the Board of Patent Appeals and Interferences under [35 U.S.C.] 134" within the meaning of 35 U.S.C. 154(b)(1)(A)(iii) (and 1.703(a)(5)), the decision must sustain or reverse the rejection(s) of the claim(s) on appeal. For a Board of Patent Appeals and Interferences decision to be a "decision by the Board of Patent Appeals and Interferences under [35 U.S.C.] 135" within the meaning of 35 U.S.C. 154(b)(1)(A)(iii) (and 1.703(a)(5)), the decision must include a decision on the patentability of the claims or priority of invention. A remand or other administrative order by the Board of Patent Appeals and

---

[2] See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

> Interferences (even if by a merits panel) is not a "decision" within the meaning of 35 U.S.C. 154(b)(1)(A)(iii)(and 1.703(a)(5)).

In this instance, such a favorable decision by the Board was mailed on May 25, 2004. The Office did not mail an Office action, a notice of allowance, in response until September 19, 2008, four months and 1455 days later. Pursuant to 37 CFR 1.703(a)(5), a period of adjustment of 1455 days should have been entered. Instead a period of adjustment of 2,546 days was entered. The period of adjustment of 2,546 days is being removed and the period of adjustment of 1455 days is being entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two thousand fifty-seven (2057) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data Management for issuance of the patent. Any further period of adjustment accrued pursuant to 37 CFR 1.702(a)(4) and 1.702(b) will be reflected in the patent term adjustment shown on the issue notification letter mailed approximately three weeks prior to the issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson,
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen

PALM INTRANET

Day : Monday
Date: 2/9/2009
Time: 14:18:48

PTA Calculations for Application: 09/200743			
Application Filing Date:	11/30/1998	PTO Delay (PTO):	3148
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	2057
PTO Delay Adjustment:	-1091		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	1455		
77	02/09/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		2546	
65	09/19/2008	MAIL NOTICE OF ALLOWANCE	2546		33
64	09/17/2008	ISSUE REVISION COMPLETED			
63	09/17/2008	DOCUMENT VERIFICATION			
62	09/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
61	09/15/2008	NOTICE OF ALLOWABILITY			
58	04/16/2008	MAIL-PETITION DECISION - GRANTED			
57	04/16/2008	PETITION DECISION - GRANTED			
56	03/17/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
55	03/13/2008	CORRESPONDENCE ADDRESS CHANGE			
54	09/18/2007	PETITION ENTERED			
53	07/11/2007	MAIL-PETITION DECISION - DISMISSED			
51	11/20/2006	PETITION ENTERED			
49	05/25/2004	INTERFERENCE DISPATCH TO TC			
48	03/09/2005	CORRESPONDENCE ADDRESS CHANGE			
47	05/25/2004	MAIL INTERFERENCE DECISION - FAVORABLE			
46	05/25/2004	INTERFERENCE DECISION ON PRIORITY - FAVORABLE	602		44
45	11/28/2003	CORRESPONDENCE ADDRESS CHANGE			
44	10/01/2002	DECLARATION OF INTERFERENCE			
43	09/20/2002	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
42	09/19/2002	MISCELLANEOUS COMMUNICATION TO			

		APPLICANT - NO ACTION COUNT			
41	07/10/2002	INTERFERENCE COMMUNICATION: INITIAL MEMO DISPOSAL			
40.7	03/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	03/20/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	12/30/2001	FAOM FLAG CHANGE			
38	08/28/2001	MISCELLANEOUS INCOMING LETTER			
36	08/02/2001	MAIL LETTER SUSPENDING PROSECUTION AT APPLICANT'S REQUEST			
35	08/02/2001	LETTER OF SUSPENSION - APPLICANT INITIATED			
34	06/09/2001	DATE FORWARDED TO EXAMINER			
33	05/31/2001	RESPONSE TO ELECTION / RESTRICTION FILED			
32	04/26/2001	MAIL RESTRICTION REQUIREMENT			
31	04/26/2001	REQUIREMENT FOR RESTRICTION / ELECTION			
30	04/26/2001	CORRESPONDENCE ADDRESS CHANGE			
29	02/21/2001	MAIL SUSPENSION DUE TO INTERFERENCE IN ANOTHER APPLICATION			
28	02/21/2001	LETTER OF SUSPENSION - INTERFERENCE IN ANOTHER CASE			
27	02/21/2001	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
26	02/21/2001	MISCELLANEOUS ACTION WITH SSP			
25	02/13/2001	TERMINAL DISCLAIMER APPROVED IN TC			
24	01/31/2001	TERMINAL DISCLAIMER FILED			
23	01/31/2001	LETTER REQUESTING SUSPENSION OF PROSECUTION			
22	01/31/2001	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
21	12/14/2000	DATE FORWARDED TO EXAMINER			
20	11/27/2000	SUPPLEMENTAL RESPONSE			
19	12/14/2000	DATE FORWARDED TO EXAMINER			
18	11/27/2000	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
17	11/27/2000	MAIL EXPRESS ABANDONMENT (DURING EXAMINATION)			
16	11/27/2000	EXPRESS ABANDONMENT (DURING EXAMINATION)			
		REQUEST FOR EXTENSION OF TIME - GRANTED			

15	11/27/2000				
14	11/27/2000	WORKFLOW - REQUEST FOR CPA - BEGIN			

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EXPLANATION OF PTA CALCULATION

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Application of :
Franciscus Bernardus Gem Benneker et al :
Application No. 09/200,743 : ON PETITION
Filed: November 30, 1998 :
Attorney Docket No. 091856-0111

This is a decision on the petition, filed March 6, 2009 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 1, 2008 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 (571) 272-3210.

This matter is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
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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AUG 26 2009

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Benneker et al.	:	
Application No. 09/200,743	:	ON APPLICATION FOR
Filed: November 30, 1998	:	PATENT TERM ADJUSTMENT
Atty Docket No. 091856-0111	:	
Title: CRYSTALLINE PAROXETINE	:	
METHANE SULFONATE	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed May 21, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is two thousand, seven hundred and fourteen (2714) days, not two thousand and fifty-seven (2057) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants assert that the recalculation of the patent term adjustment as set forth in a letter regarding patent term adjustment (mailed on February 10, 2009) was made in error.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not

undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

To the extent that Applicants otherwise request review of the the recalculation of the patent term adjustment as set forth in the February 10, 2009 letter regarding patent term adjustment, the request is **DISMISSED**.

Applicant's assertion has been considered, but is not well taken. The reply to the restriction requirement was filed on May 31, 2001. The Letter regarding the Request for Suspension was mailed on August 2, 2001 in response to, and within four months of, the filing of the reply. Further, a review of the Letter regarding the Request for Suspension confirms that it is an Office action prepared by the Examiner as a result of the examination conducted pursuant to 35 U.S.C. 131. The Letter regarding the Request for Suspension is a notification under 35 U.S.C. 132 and properly stops the clock for determining examination delay pursuant to 37 CFR 1.703(a)(2).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson for

Anthony Knight
Supervisor
Office of Petitions

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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:
Thomas M. Behr et al	:
Serial No.: 09/200,791	: WITHDRAWAL OF ATTORNEY
Filed: November 30, 1998	:
Attorney Docket No.: 018734-0161	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or
(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 19

McDermott, Will & Emery
600 13th Street, N.W.
Washington, D.C. 20005-3096

In re Application of: Christian Mayaud	)	
Application No. 09/201,107	)	**DECISION ON PETITION UNDER 37**
Filed: November 30, 1998	)	**C.F.R. § 1.181(a) TO INVOKE**
For: PRESCRIPTION MANAGEMENT	)	**SUPERVISORY AUTHORITY**
SYSTEM	)	

This is a decision on a petition, filed 29 October 2001, under 37 C.F.R. § 1.181(a) to invoke Supervisory Authority requesting the Director to reverse the Primary Examiner's holding as to the Grouping of Claims under appeal as set forth in the Examiner's Answer (mail date 28 August 2001).

37 C.F.R. § 1.181(a) states:

> (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. For petitions in interferences, see § 1.644.

In this instance, Applicant disagrees with Examiner's position on the grouping of claims. This is an issue in the appeal subject to the determination of the Board of Patent Appeals and Interferences. Therefore, this is not proper subject matter for petition under 37 C.F.R. § 1.181(a).

The petition is **DENIED**

Applicant is advised that the Reply Brief affords Applicant the opportunity for contesting the position taken by the Primary Examiner in the Examiner's Answer.

The application file is being returned to the Board of Patent Appeals and Interferences where it will await a decision.

John J. Love, Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/30/06

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/201228** Patent No.: **7041490**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Applicant's line numbering includes spaces, see attachment for position of correction to column 27 line 25

SPE

1631 9.5.6
Art Unit

tide or one of its representative fragments, such as for example the ribosomal proteins L21, L27 and S10, and in that they comprise a nucleotide sequence chosen from the following sequences:

ORF114; ORF115; ORF116; ORF328; ORF361; ORF375; ORF445; ORF543; ORF584; ORF585; ORF743; ORF813; ORF941; ORF942; ORF944; ORF946; ORF947; ORF948; ORF950; ORF951; ORF952; ORF953; ORF954; ORF955; ORF955; ORF957; ORF958; ORF960; ORF961; ORF1040; ORF1041; ORF1043; ORF1063; ORF1064 and one of their representative fragments.

Preferably, the invention also relates to the nucleotide sequences according to the invention, characterized in that they encode a *Chlamydia trachomatis* transport polypeptide or one of its representative fragments, such as for example the proteins for transporting amino acids, sugars and certain oligopeptides, and in that they comprise a nucleotide sequence chosen from the following sequences:

ORF6; ORF50; ORF51; ORF80; ORF125; ORF126; ORF128; ORF129; ORF215; ORF246; ORF248; ORF249; ORF251; ORF252; ORF253; ORF255; ORF271; ORF275; ORF293; ORF309; ORF323; ORF324; ORF398; ORF401; ORF449; ORF451; ORF512; ORF564; ORF565; ORF667; ORF679; ORF680; ORF711; ORF712; ORF713; ORF714; ORF715; ORF730; ORF731; ORF736; ORF737; ORF738; ORF870; ORF908; ORF919; ORF977; ORF987; ORF988; ORF992; ORF993; ORF994; ORF1028; ORF1029 and one of their representative fragments.

Preferably, the invention also relates to the nucleotide sequences according to the invention, characterized in that they encode a *Chlamydia trachomatis* polypeptide or one of its representative fragments which is involved in the virulence process, such as for example the proteins analogous to the *Escherichia coli* vacB protein, and in that they comprise a nucleotide sequence chosen from the following sequences:

ORF20; ORF815; ORF816; ORF898; ORF1059; ORF1060 and one of their representative fragments.

Preferably, the invention also relates to the nucleotide sequences according to the invention, characterized in that they encode a *Chlamydia trachomatis* polypeptide or one of its representative fragments which is involved in the secretory system and/or which is secreted, such as for example proteins homologous to proteins in the secretory system of certain bacteria such as the *Salmonellae* or the *Yersiniae*, and in that they comprise a nucleotide sequence chosen from the following sequences:

ORF758; ORF888; ORF889; ORF890; ORF891; ORF896; ORF897; ORF898 and one of their representative fragments.

Preferably, the invention also relates to nucleotide sequences according to the invention, characterized in that they encode a polypeptide specific to Chlamydiae or one of its representative fragments, and in that they comprise a nucleotide sequence chosen from the following sequences:

ORF22; ORF29; ORF31; ORF32; ORF34; ORF35; ORF39; ORF40; ORF43; ORF48; ORF49; ORF50; ORF52; ORF53; ORF54; ORF72; ORF77; ORF78; ORF87; ORF90; ORF95; ORF108; ORF110; ORF111; ORF122; ORF123; ORF124; ORF127; ORF138; ORF144; ORF146; ORF153; ORF155; ORF164; ORF166; ORF175; ORF182; ORF184; ORF186; ORF187; ORF188; ORF202; ORF210; ORF247; ORF258; ORF266; ORF267; ORF270; ORF273; ORF274; ORF295; ORF296; ORF305; ORF306; ORF309; ORF318; ORF319; ORF322; ORF326; ORF342; ORF357; ORF376; ORF379; ORF380; ORF388; ORF390; ORF400; ORF431; ORF433; ORF438; ORF443; ORF456; ORF457; ORF458; ORF464; ORF468; ORF470; ORF473; ORF486; ORF489; ORF497; ORF501; ORF503; ORF504; ORF508; ORF512; ORF521; ORF522; ORF523; ORF524; ORF533; ORF535; ORF536; ORF537; ORF538; ORF539; ORF540; ORF554; ORF563; ORF572; ORF579; ORF595; ORF603; ORF604; ORF606; ORF607; ORF615; ORF616; ORF622; ORF641; ORF642; ORF659; ORF668; ORF670; ORF693; ORF695; ORF696; ORF699; ORF703; ORF704; ORF716; ORF726; ORF728; ORF739; ORF742; ORF747; ORF750; ORF751; ORF755; ORF757; ORF759; ORF761; ORF762; ORF763; ORF764; ORF773; ORF780; ORF781; ORF789; ORF800; ORF803; ORF804; ORF818; ORF820; ORF822; ORF823; ORF824; ORF827; ORF828; ORF839; ORF849; ORF850; ORF851; ORF852; ORF855; ORF856; ORF857; ORF858; ORF859; ORF860; ORF861; ORF862; ORF863; ORF865; ORF868; ORF869; ORF870; ORF871; ORF872; ORF873; ORF874; ORF875; ORF877; ORF878; ORF880; ORF882; ORF884; ORF886; ORF893; ORF901; ORF906; ORF910; ORF912; ORF915; ORF916; ORF917; ORF926; ORF929; ORF933; ORF965; ORF967; ORF968; ORF984; ORF986; ORF989; ORF990; ORF996; ORF997; ORF1001; ORF1002; ORF1013; ORF1016; ORF1031; ORF1033; ORF1035; ORF1049; ORF1051; ORF1052; ORF1054; ORF1056; ORF1057; ORF1058; ORF1062; ORF1070; ORF1071; ORF1073 and one of their representative fragments.

Also forming part of the invention are polypeptides encoded by the polynucleotides of the invention, as well as fusion polypeptides comprising such polypeptides. In one embodiment, the polypeptides and fusion polypeptides immunoreact with seropositive serum of an individual infected with *Chlamydia trachomatis*. For example, described below, are polypeptide sequences exhibiting particularly preferable characteristics. For each group of preferred polypeptides described below, it is to be understood that in addition to the individual polypeptides listed, in instances wherein such polypeptides are encoded as part of <<combined>> ORFs, such <<combined>> polypeptides are also to be included within the preferred group.

The subject of the invention is also a polypeptide according to the invention, characterized in that it is a polypeptide of the cellular envelope, preferably of the outer cellular envelope, of *Chlamydia trachomatis* or one of its representative fragments. According to the invention, the said polypeptide is preferably chosen from the polypeptides having the following sequences:

SEQ ID No. 3; SEQ ID No. 19; SEQ ID No. 51; SEQ ID No. 189; SEQ ID No. 212; SEQ ID No. 213; SEQ ID No. 324; SEQ ID No. 477; SEQ ID No. 478; SEQ ID No. 479; SEQ ID No. 481; SEQ ID No. 482; SEQ ID No. 483; SEQ ID No. 484; SEQ ID No. 486; SEQ ID No. 488; SEQ ID No. 489; SEQ ID No. 490; SEQ ID No. 572; SEQ ID No. 573; SEQ ID No. 742; SEQ ID No. 817; SEQ ID No. 818; SEQ ID No. 820; SEQ ID No. 1035; SEQ ID No. 1036; SEQ ID No. 1037; SEQ ID No. 1038; SEQ ID No. 1070; SEQ ID No. 1071; SEQ ID No. 1073 and one of their representative fragments.

Preferably, the invention relates to a polypeptide according to the invention, characterized in that it is a *Chlamydia trachomatis* transmembrane polypeptide or one of its representative fragments, having between 1 and 3 transmembrane domains, and in that it is chosen from the polypeptides having the following sequences:

SEQ ID No. 2; SEQ ID No. 3; SEQ ID No. 5; SEQ ID No. 8; SEQ ID No. 9; SEQ ID No. 10; SEQ ID No. 11; SEQ ID No. 12; SEQ ID No. 17; SEQ ID No. 21; SEQ ID No. 26;

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)
6390963	2002-05-21	09201470	1998-11-30	820326-1010

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/jerry k. mccollum/	Date (YYYY-MM-DD)	2007-08-28
Name	Jerry K. McCollum		
Enter Reel and Frame Number		Remove	
Reel Number	009626	Frame Number	0562
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.

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In re Patent No. 6390963
Issue Date: May 21,2002
Application No. 09201470
Filed: November 30,1998
Attorney Docket No. 03991-0220

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 30,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 30,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/02/2010

Applicant	: STEPHEN W. MORRO	: DECISION ON REQUEST FOR
Patent Number	: 6162121	: RECALCULATION of PATENT
Issue Date	: 12/19/2000	: TERM ADJUSTMENT IN VIEW
Application No	: 09/201,671	: OF WYETH
Filed	: 11/30/1998	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6191827
Issue Date: February 20,2001
Application No. 09201849
Filed: December 1,1998
Attorney Docket No. 988/4

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 28,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 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)
6,191,827	2001-02-20	09/201,849	1998-12-01	988/4 (P22950)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity 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	/Jeffrey S. Draeger/	Date (YYYY-MM-DD)	2009-09-28
Name	Jeffrey s. Draeger	Registration Number	41000

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 5979462
Issue Date: November 9,1999
Application No. 09201941
Filed: December 1,1998
Attorney Docket No. JNE01

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 2,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 2,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5979462	1999-11-09	09201941	1998-12-01	JNE01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity 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	/Mary P. Jones/	Date (YYYY-MM-DD)	2009-11-02
Name	Mary P. Jones		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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.

2 4 JUL 2002

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

TIMOTHY J MARTIN
9250 W 5TH AVENUE
SUITE 200
LAKEWOOD, CO 80226

In re Application of JERRY R. SMITH Serial No.: 09/202,003 PCT No.: PCT/US97/12310 Int. Filing Date: 09 July 1997 Claimed Priority Date: 09 July 1996 Atty. Docket No.: DN 1627 PCT For: ELECTROMECHANICAL SWITCHING DEVICE	:	DECISION ACCEPTING PAPERS AS APPLICATION

BACKGROUND

This is a decision in response to the papers filed in the United States Patent and Trademark Office (USPTO) by applicants on 14 February 2002, which include, *inter alia*,:

(1) a copy of a Transmittal Letter Concerning a Filing under 35 U.S.C. § 371 (Form PTO-1390);

(2) a copy of the international application, International Search Report (Form PCT/IB/308), Form PCT/IB/332, Form PCT/IB/304, Form PCT/IPEA/402, Form PCT/IPEA/416, and International Preliminary Examination Report (Form PCT/IPEA/409);

(3) Declaration (executed);

(4) Petition under 37 CFR 1.181(a)(3) to transmit a Notification of Acceptance of Application under 35 U.S.C. 371 and for Prompt Examination of National Stage Application, with attached exhibits filed in USPTO on 27 November 2000;

(5) itemized post card receipt date stamped 07 December 1998 by the USPTO;

(6) a written statement signed by Timothy J. Martin that the above-mentioned papers are a copy of the application file of the instant application as filed on 07 December 1998.

(7) filing fee of $380.00.

ACCEPTANCE OF PAPERS AS APPLICATION CONTENTS

The papers filed 14 February 2002 are accepted as the contents of application number 09/202,003 and will be used to reconstruct the USPTO application file, the original of which cannot presently be located, as follows:

(1) the copy of the Transmittal Letter (Form PTO-1390) and international application filed on 14 February 2002 will be entered as the application papers filed 07 December 1998 in accordance with an itemized post card receipt date stamped by the USPTO for the instant application, which indicates receipt of a new application on 07 December 1998;

(2) the declaration filed on 14 February 2002 will be treated as if filed on 07 December 1998. as evidenced by the copy of the postcard receipt submitted therewith.

This application is being forwarded to the National Stage Processing Branch of the International Division for processing in accordance with this decision, including reconstruction of the application file as indicated above and preparation and mailing of a Notification of Acceptance of Application under 35 U.S.C. § 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) indicating a date of **07 December 1998** under 35 U.S.C. § 371(c).

Leonard E. Smith
Legal Examiner
PCT Legal Office

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/LES:cmk

Telephone: (703) 306-5467
Facsimile: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/202,054	12/07/1998	AUDREY GODDARD	P1154R2	2403

7590 09/30/2009
GINGER R DREGER
GENENTECH INC
1 DNA WAY
SOUTH SAN FRANCISCO, CA 940804990

EXAMINER
SPECTOR, LORRAINE

ART UNIT	PAPER NUMBER
1647	

MAIL DATE	DELIVERY MODE
09/30/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 30 2009

GINGER R DREGER
GENENTECH INC
1 DNA WAY
SOUTH SAN FRANCISCO CA 94080-4990

In re Application of:
Goddard et al.
Serial No.: 09/202,054
Filed: December 7, 1998
Attorney Docket No.: **P1154R2**

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR 1.181(a) filed on September 30, 2008, requesting withdrawal of the holding of abandonment which indicated that the application was abandoned in view of the Decision by the Board of Patent Appeals and Interferences. The delay in responding to this petition is regretted but it has only recently come to the attention of the deciding official.

A review of the file history shows that the examiner mailed a notice of abandonment on July 31, 2008 in view of the Decision by the Board of Patent Appeals and Interferences.

Applicants state that "This Notice of Abandonment is erroneous. There are allowed claims in the application, namely, claims 55-57". Specifically, applicants state that "In the Decision by the Board of Patent Appeals and Interferences rendered on May 2, 2008, the rejections to claims 28 and 48 under 35 U.S.C. 102(b) and those to claims 29, 49, 50 and 54 under 35 U.S.C. 103(a) were upheld. However, the Examiner's rejections to claims 55-57 under 35 U.S.C. 101 and 35 U.S.C. 112, first paragraph were reversed in this Decision. Therefore, there are allowed claims in the application, namely, claims 55-57. In accordance with M.P.E.P. 1214.06 at page 1200-59, Applicants' attorney was not required to file a reply to the Decision. Instead, the Examiner should have canceled claims 28-30, 48-50 and 54 and issued the application with claims 55-57". Applicants' points are well taken and persuasive.

Accordingly, applicants' petition is **GRANTED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision; namely, withdrawal of the abandonment, allowance of claims 55-57 and cancellation of claims 28-30, 48-50 and 54 as requested.

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.

Marianne C. Seidel
Quality Assurance Specialist
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. 6162273
Issue Date: December 19,2000
Application No. 09202286
Filed: December 11,1998
Attorney Docket No. BO-40482

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 8,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 8,2009 . 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)
6162273	2000-12-19	09202286	1998-12-11	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2009-09-08
Name	Benoit Castel	Registration Number	35041

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

20 JUN 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

John C. Evans
Reising, Ethington, Learman & McCulloch PLLC
P.O. Box 4390
Troy, MI 48099-4390

In re Application of BARTOLI	:	
U.S. Application No.: 09/202,338	:	
PCT Application No.: PCT/EP97/03100	:	DECISION
Int. Filing Date: 16 June 1997	:	
Priority Date Claimed: 18 June 1996	:	
Attorney Docket No.: P-3003.1LUPPI	:	
For: PACKAGING UNIT	:	

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 18 July 2000.

BACKGROUND

On 16 June 1997, applicant filed international application PCT/EP97/03100, which claimed priority of an earlier Italy application filed 18 June 1996. A copy of the international application was communicated to the USPTO from the International Bureau on 24 December 1997. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 December 1997, 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 on 18 December 1998.

On 14 December 1998, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 12 August 1999, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 25 April 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned as to the United States for failure to timely reply to the Notification of Missing Requirements.

On 18 July 2000, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 16 June 1997, and a date under 35 U.S.C. 371(c) of 18 July 2000.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Tung
PCT Legal Examiner
Office of PCT Legal Affairs

Telephone: 703-308-6614
Facsimile: 703-308-6459

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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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IBM CORPORATION
T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Ronald P. Luijten et al :
Application No. 09/202,365 : ON PETITION
Filed: December 10, 1998 :
Attorney Docket No. CH91997003US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 6, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee. 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. See MPEP 711.03(c)(III)(A)(1). Therefore, the filing of a request for continued examination (RCE) is not a proper reply under 37 CFR 1.137(a)(1) or (b)(1). In view of the authorization contained in the RCE transmittal to change any additional fees due, the $1,400 issue fee will be charged to Deposit Account No.09-0468. The issue fee is not refundable. 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.

The above-identified application is being revived solely for purposes of continuity with a request for continued examination (RCE) filed on April 6, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2661.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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14/B
B. Webb
7/11/01

IN 09/202,634 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	SCHUBERT ET AL.	Examiner:	J. EINSMANN
Serial No.:	09/202,634	Group Art Unit:	1655
Filed:	MARCH 3, 1999	Docket No.:	9725.13USWO
Title:	OZONE-INDUCED GENE EXPRESSION IN PLANTS		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on June 28, 2001.

By: Kristine A. Wacek
Name: Kristine A. Wacek

RESPONSE TO NOTICE TO COMPLY AND CERTIFICATE REGARDING SEQUENCE LISTING

Box Sequence
Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This paper is being filed in response to the Examiner's communication mailed May 31, 2001. In response to the Notice to Comply and in accordance with the requirements of 37 C.F.R. § 1.821 - § 1.825, Applicants enclose herewith a substitute computer readable form of the Sequence Listing. In addition, a paper copy of the substitute Sequence Listing is also provided. Please insert the substitute paper copy into the file. Applicants state that the substitute paper copy of the Sequence Listing of the present application and the computer readable form submitted herewith are the same. Applicants hereby state that the substitute computer readable form and the paper copy of the Sequence Listing enclosed do not include new matter.

Pursuant to the Examiner's request, also enclosed is a copy of the Notice to Comply with the sequence listing rules.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: June 28, 2001

John J. Gresens
Reg. No. 33,112
JJG:KMC:PSTkaw

23552
PATENT TRADEMARK OFFICE

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PATENT & TRADEMARK OFFICE

Notice to Comply

Application No.	Applicant(s)
09/202,634	SCHUBERT ET AL.
Examiner	**Art Unit**
Juliet C. Einsmann	1655

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).

☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).

☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).

☒ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."

☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).

☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).

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☐ 7. Other:

Applicant Must Provide:

☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".

☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.

☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY

OIPE JC156
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	SCHUBERT ET AL.	Examiner:	J. EINSMANN
Serial No.:	09/202,634	Group Art Unit:	1655
Filed:	MARCH 3, 1999	Docket:	9725.13USWO
Due Date:	JUNE 30, 2001		
Title:	OZONE-INDUCED GENE EXPRESSION IN PLANTS		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Box Sequence, Commissioner for Patents, Washington, D.C. 20231, on June 28, 2001.

By: Kristine A. Gracik
Kristine A. Gracik

Box Sequence
Commissioner for Patents
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Computer readable form of Sequence Listing. Applicants state that the paper copy form of the Sequence Listing section of the present application, and the computer readable form submitted herewith, are the same.
- ☒ Other: Reponse to Notice to Comply and Certificate Regarding Sequence Listing, copy of Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.
P.O. Box 2903, Minneapolis, MN 55402-0903
612.332.5300

23552
PATENT TRADEMARK OFFICE

By: J. J. Gresens
Name: John J. Gresens
Reg. No.: 33,112
JGresens:KMC:PSTkaw

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S/N 09/202,634

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	SCHUBERT ET AL.	Examiner:	O. ZAGHMOUT
Serial No.:	09/202,634	Group Art Unit:	1638
Filed:	MARCH 3, 1999	Docket No.:	9725.13USWO
Title:	OZONE-INDUCED GENE EXPRESSION IN PLANTS		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on November 13, 2000.

By: [signature]
Name:

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NOV 29 2000
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RESPONSE TO NOTICE TO COMPLY AND CERTIFICATE REGARDING SEQUENCE LISTING

23552
PATENT TRADEMARK OFFICE

Box Sequence
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This paper is being filed in response to the Examiner's communication mailed October 4, 2000. In response to the Notice to Comply and in accordance with the requirements of 37 C.F.R. § 1.821 - § 1.825, Applicants enclose herewith a computer readable form of the Sequence Listing. In addition, a paper copy of the Sequence Listing is also provided. Please insert the paper copy into the file after the Executed Oath or Declaration, as required by 37 C.F.R. § 1.77(a)(15). Applicants hereby state that the computer readable form and the paper copy of the Sequence Listing enclosed do not include new matter.

Pursuant to the Examiner's request, also enclosed is a copy of the Notice to Comply with the sequence listing rules.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: 11/13/2000

[signature]
John J. Gresens
Reg. No. 33,112
JJG:KMC:PSTkaw

Application No.: 09/202,634

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NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

OIPE JC50 NOV 17 2000 PATENT & TRADEMARK OFFICE

1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.

☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).

☒ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).

4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."

☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).

☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).

☐ 7. Other: _____

Applicant Must Provide:

✓ ☒ An initial ~~or substitute~~ computer readable form (CRF) copy of the "Sequence Listing".

☐ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.

✓ ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
PatentIn Software Program Support (SIRA)
Technical Assistance.....703-287-0200
To Purchase PatentIn Software.....703-306-2600

☒ **PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE**

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1638

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	SCHUBERT ET AL.	Examiner:	O. ZAGHMOUT	
Serial No.:	09/202,634	Group Art Unit:	1638	
Filed:	MARCH 3, 1999	Docket:	9725.13USWO	
Due Date:	DECEMBER 4, 2000			
Title:	OZONE-INDUCED GENE EXPRESSION IN PLANTS			

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Box Sequence Assistant Commissioner for Patents, Washington, D.C. 20231, on November 13, 2000.

By: [signature]

OIPE JC50 NOV 17 2000 PATENT & TRADEMARK OFFICE

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NOV 29 2000

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Box Sequence
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Request for Extension of Time for one month(s) and fee of $110.00
- ☒ Computer readable form of Sequence Listing. Applicants state that the paper copy form of the Sequence Listing section of the present application, and the computer readable form submitted herewith, are the same.
- ☒ Other: Response to Notice to Comply and Certificate Regarding Sequence Listing, copy of Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures and Change of Address
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.
P.O. Box 2903, Minneapolis, MN 55402-0903
612.332.5300

By: [signature]
Name: John J. Gresens
Reg. No.: 33,112
JJG:KMC:PSTkaw

23552
PATENT TRADEMARK OFFICE

(PTO TRANSMITTAL - GENERAL)

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty Legal Office

Address: Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

JUL 0 5 2000

Kilpatrick, Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

In re Application of	:	
JUBB et al	:	DECISION ON
Application No.: 09/202,758	:	
PCT No.: PCT/GB97/01667	:	RENEWED PETITION
Int. Filing Date: 20 June 1997	:	
Priority Date: 21 June 1996	:	UNDER 37 CFR 1.182
Attorney Docket No.: M8540/185343	:	
For: SALINE SOLUBLE INORGANIC FIBRES	:	

This decision is in response to the "Request for Reconsideration of Decision on Petition under 37 CFR 1.182" filed 18 November 1999.

BACKGROUND

On 20 June 1997, applicants filed international application No. PCT/GB97/01667, which claims a priority date of 21 June 1996 and designates the United States. A Demand, in which the U.S. was elected, was filed within 19 months of the priority date. Accordingly, the deadline for entry into the national stage in the U.S. expired as of midnight of 21 December 1998.

On 21 December 1998, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee and an executed declaration of the inventors. In the "FAMILY NAME" box of the declaration pertaining to the fourth named inventor, the name "WASSELL" appears along with the indication "(Formerly AJW) (LOWE)." The declaration has been signed by "A.J. Wassell." In addition, the Transmittal Letter references "Form PCT/IB/306 changing name of Inventor Jane Wassell," which form is present in the application file and indicates the recording of a change in the name of applicant-inventor Jane Alison Lowe to "Jane Alison Wassell." The submission was treated as including a petition under 37 CFR 1.182 to effect a name change of the inventor.

On 15 September 1999, a decision was mailed dismissing the petition for failure to

comply with the provisions of MPEP 605.04(c). A two-month extendable period for reply was set therein.

On 18 November 1999, applicants filed the present renewed petition accompanied by a declaration from inventor Alison Jane Wassell.

DISCUSSION

MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

As indicated in the prior decision, the petition fee has been paid.

With regards to item (2), the present petition is accompanied by an affidavit signed by Ms. Wassell with both names setting forth the procedure whereby the change of name was effected.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED**.

The application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the present application, including according the application 35 U.S.C. 371(c) and 102(e) dates of **21 December 1998.**

BMilef

Boris Milef
Legal Examiner
PCT Legal Office

Telephone: (703) 308-3659
Facsimile: (703) 308-6459

30 MAR 2004

#20

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov

Jacob Eisenberg
Siemens Schweiz
Intellectual Property, IP-I-44
Albisriederstrasse 245
Zurich, Switzerland CH-8047

In re Application of :
ROSENBAUM et al. :
Application No.: 09/202,759 :
PCT No.: PCT/EP97/02167 :
Inter. Filing Date: 22 June 1997 : DECISION ON PETITION
Priority Date: None :
Attorney Docket No.: 1996PO8661WOU :
For: METHOD OF PROCESSING POSTAL MATTERS :

This is a decision on applicant's "Petition for Change of the Order of Inventors" filed 27 November 2003 which being treated as a Petition under 37 CFR 1.182. The petition fee has been charged to Deposit Account no. 50-2464.

On 22 December 1998, applicants timely filed a request to enter into the national stage under 35 U.S.C. 371 along with the appropriate basic national filing fee.

In response to the Notification of Missing Requirements mailed 28 October 1999 by the United States Designated/Elected Office, applicants filed a declaration and a translation of international application on 28 February 2000.

On 13 March 2000, a Notification of Acceptance was issued identifying the 35 U.S.C.102(e) and 371(c) date as 28 February 2000. Subsequently, an Official Filing Receipt was issued indicating a "FILING DATE" of 28 February 2000.

On 27 November 2003, applicants filed "Petition for Change of the Order of Inventors" and the application was forwarded to the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

On 11 March 2004, applicants filed a supplemental declaration and power of attorney.

DISCUSSION

A. Defective Declaration under 37 CFR 1.497

The above-identified application has been forwarded to the Office of PCT Legal

Administration for issues arising under 35 U.S.C. 371. A review of the application file and other Patent and Trademark Office records reveal that the requirements of 35 U.S.C. 371(c) for entry into the national stage in the United States of America have not been completed as indicated in the Notification of Acceptance mailed by the United States Designated/Elected Office on 13 March 2000. Specifically, the declaration submitted on 28 February 2000 was not in compliance with 37 CFR 1.497(a)(3) which requires that the oath or declaration identify each inventor and the residence and country of citizenship of each inventor. Here, the declaration does not include the citizenship of the second inventor, Walter Rosenbaum. Since, the declaration does not clearly identify the citizenship of inventors, it is considered defective under 37 CFR 1.497(a)(3). Therefore, the Notification of Acceptance mailed 13 March 2000 identifying the 35 U.S.C.102(e) and 371(c) date as 28 February 2000 is hereby vacated.

The supplemental declaration filed on 11 March 2004 is in compliance with 37 CFR 1.497(a)(3) and 35 U.S.C. 371(c)(4).

B. Petition under 37 CFR 1.182

Applicants request that the order of the inventors be changed from: Karl-Gunther Hansel and Walter Rosenbaum; to Walter Rosenbaum and Karl-Gunther Hansel. The petition under 37 CFR. 1.182 is granted.

CONCLUSION

The Notification of Acceptance mailed 13 March 2000 identifying the 35 U.S.C.102(e) and 371(c) date as 28 February 2000 is hereby vacated.

The Petition for Change of the Order of Inventors under 37 CFR 1.182 is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office for the mailing of a new Notification of Acceptance of Application under 35 U.S.C. 371 (Form PCT/DO/EO/903) indicating a date of **11 March 2004** under 35 U.S.C. 371(c) and for issuing a corrected filing receipt showing such date and changing the order of the names of the inventor.

Thereafter, this application will be forwarded to the Issue Branch for further processing.

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