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(For Applicant)

eBay, Inc.
2145 Hamilton Avenue
San Jose, CA 95125

(Petitioner)

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OFFICE OF PETITIONS

Access Petition for in re application	:	
Thomas G. Woolston	:	DISMISSAL
Application No. 09/253,014	:	37 CFR § 1.14(i) PETITION
Filed: February 19, 1999	:	FOR ACCESS
Attorney Docket No. 13466-002002	:	

Title: A COMPUTER-IMPLEMENT METHOD AND SYSTEM FOR CONDUCTING AUCTIONS ON THE INTERNET

INTRODUCTION

This is a decision on a January 11, 2007 third party petition entitled "PETITION FOR ACCESS OR COPIES PURSUANT TO 37 CFR § 1.14(h)" and a February 2, 2007 applicant opposition entitled "PATENT OWNER'S OPPOSITION TO THIRD PARTY REQUESTOR'S PETITION FOR ACCESS OR COPIES PURSUANT TO 37 CFR § 1.14(h)."

The petition is before the Office of Patent Legal Administration for consideration.

The petition is **DISMISSED** for the reasons set forth below.

FACTS

1. On April 26, 1995, Thomas G. Woolston (applicant) filed patent application 08/427,820 (the '820 application).

2. On November 7, 1995, applicant filed patent application 08/554,704 (the '704 application) with a benefit claim to the '820 application under 35 USC § 120 as a continuation-in-part application.

3. On October 6, 1998, applicant filed patent application 09/166,779 (the '779 application) with a benefit claim to the '820 application through the '704 application under 35 USC § 120 as a continuation application.

4. On December 1, 1998, the '704 application was issued by the Office as US Patent 5,845,265 (the '265 patent).

5. On February 19, 1999, applicant filed patent application 09/253,014 (the '014 application) with a benefit claim to the '820 application through the 09/166,779 application as a divisional application under 35 USC § 121 and through the '704 application.

6. Also on February 19, 1999, applicant filed patent application 09/253,021 (the '021 application) with a benefit claim to the '820 application through the 09/166,779 application as a divisional application under 35 USC § 121 and through the '704 application.

7. On March 8, 1999, applicant filed patent application 09/264,573 (the '573 application) with a benefit claim to the '820 application through the 09/166,779 application as a continuing application under 35 USC § 120 and through the '704 application.

8. On July 4, 2000, the '573 application was issued by the Office as US Patent 6,085,176 (the '176 patent).

9. On March 13, 2001, the '021 application was issued by the Office as US Patent 6,202,051 (the '051 patent).

10.On September 26, 2001, the MercExchange, the assignee of applicant's patents, filed suit against eBay, the petitioner in the instant decision, *inter alia,* for infringement of the '051, the '176 and the '265 patents. *See MercExchange, L.L.C. v. eBay Inc.,* No. 2:01-736 (E.D. Va.)

11. On November 22, 2004 the Office issued a notice of abandonment in the '820 application.

12. On January 11, 2007, petitioner submitted a petition for access under 37 CFR 1.14(i) requesting access to the '014 application on the basis of "special circumstances."

13. On August 2, 2007, petitioner submitted a status inquiry regarding a decision on their request for access. In the status inquiry petitioner asserted that applicant on February 2, 2007 had filed an opposition to the petition for access.

14. On February 4, 2008, in response to an Office inquiry regarding the existence of a February 2, 2007 opposition submission, applicant provided copies of the February 2, 2007 opposition submission, along with a post card receipt showing proof of submission on February 2, 2007.

RELEVANT LAW

35 USC § 122(a) states:

> (a) CONFIDENTIALITY.- Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

37 CFR § 1.14(a) states (in part):

(a) *Confidentiality of patent application information.* Patent applications that have not been published under 35 U.S.C. 122(b) are generally preserved in confidence pursuant to 35 U.S.C. 122(a). Information concerning the filing, pendency, or subject matter of an application for patent, including status information, and access to the application, will only be given to the public as set forth in § 1.11 or in this section.

(1) Records associated with patent applications (see paragraph (g) for international applications) may be available in the following situations: . . . .

(v) *Unpublished pending applications (including provisional applications) whose benefit is claimed.* A copy of the file contents of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the benefit of the application is claimed under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). A copy of the application-as-filed, or a specific document in the file of the pending application may also be provided to any person upon written request, and payment of the appropriate fee (§ 1.19(b)). ***The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.***

(vi) *Unpublished pending applications (including provisional applications) that are incorporated by reference or otherwise identified.* A copy of the application as originally filed of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the application is incorporated by reference or otherwise identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). ***The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.***

(vii) *When a petition for access or a power to inspect is required.* Applications that were not published or patented, that are not the subject of a benefit claim under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2), or are not identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application that was published in accordance with PCT Article 21(2), ***are not available to the public.*** If an application is identified in the file contents of another application, but not the published patent application or patent itself, ***a granted petition for access (see paragraph (i)) or a power to inspect (see paragraph (c)) is necessary to obtain the application, or a copy of the application.***

37 CFR § 1.14 (c) states:

(c) *Power to inspect a pending or abandoned application.* Access to an application may be provided to any person if the application file is available, and the application contains written authority (*e.g.*, a power to inspect) granting access to such person. The written authority must be signed by:

(1) An applicant;

(2) An attorney or agent of record;

(3) An authorized official of an assignee of record (made of record pursuant to § 3.71 of this chapter); or

(4) A registered attorney or agent named in the papers accompanying the application papers filed under § 1.53 or the national stage documents filed under § 1.495, if an executed oath or declaration pursuant to § 1.63 or § 1.497 has not been filed.

37 CFR § 1.14 (i) states:

(i) *Access or copies in other circumstances.* The Office, either *sua sponte* or on petition, may also provide access or copies of all or part of an application if necessary to carry out an Act of Congress or if warranted by other special circumstances. Any petition by a member of the public seeking access to, or copies of, all or part of any pending or abandoned application preserved in confidence pursuant to paragraph (a) of this section, or any related papers, must include:

(1) The fee set forth in § 1.17(g); and

(2) A showing that access to the application is necessary to carry out an Act of Congress or that ***special circumstances exist which warrant petitioner being granted access to all or part of the application.***

MPEP 103 (V) states (in part):

The petition may be filed either with proof of service of copy upon the applicant, assignee of record, or attorney or agent of record in the application to which access is sought, or the petition may be filed in duplicate, in which case the duplicate copy will be sent by the Office to the applicant, assignee of record, or attorney or agent of record in the application (hereinafter "applicant"). A separate petition, with fee, must be filed for each application file to which access is desired. Each petition should show not only why access is desired, but also why petitioner believes he or she is entitled to access. The applicant will normally be given a limited period such as 3 weeks within which to state any objection to the granting of the petition for access and reasons why it should by denied. If applicant states that he or she has no objection to the requested access, the petition will be granted. If objection is raised or applicant does not respond, the petition will be decided on the record. If access is granted to the application, any objections filed by the applicant will be available to the petitioner since these papers are in the application file. If access to the application is denied, petitioner will not receive copies of any objections filed by the applicant. A determination will be made whether "special circumstances" are present which warrant a grant of access under 35 U.S.C. 122. See below when the application is the basis of a claim for benefit of an earlier filing date under 35 U.S.C. 120 or part of the application is incorporated by reference in a United States patent. "***Special circumstances" could be found where an applicant has relied upon his or her application as a means to interfere with a competitor's business or customers.*** See *In re Crossman,* 187 USPQ 367 (PTO Solicitor 1975); *In re Trimless Cabinets*, 128 USPQ 95 (Comm'r Pat. 1960); and *Ex parte Bonnie-B Co.*, 1923 C.D. 42, 313 O.G. 453 (Comm'r Pat. 1922). Furthermore, "special circumstances" could be found where an attorney or agent of record in an application in which a provisional double patenting rejection is made does not have power of attorney in the copending application having a common assignee or inventor. However, a more expeditious means of obtaining access would be to obtain power to inspect from an assignee or inventor. See MPEP § 104 and § 106.01. [Emphasis added]

PETITION

A petition for access under 37 CFR § 1.14(h), now (i), was filed by Mr. Jay B. Monahan on behalf of eBay, Inc., for access to the above-identified application on January 11, 2007, with proof of service upon applicants.

A member of the public may be entitled to access if "special circumstances" are shown which warrant a grant of access under 35 USC § 122. See Manual of Patent Examination Procedure (MPEP), Section 103. The use of such application to interfere with the business of others may be such special circumstances. *Ex parte Bonnie-B Co., Inc.*, 1923 C.D. 42; *In re Application for Trimless Cabinets*, 128 USPQ 95 (Comm'r Pats. 1960); and *In re Crossman, Kenrick and LeMieux*, 187 USPQ 367 (PTO Sol. 1975).

Petitioner states that access should be granted to the above-identified application, based upon two separate grounds, both of which are asserted as being "special circumstances." Petitioner asserts that: (1) access is warranted because any trade secrets contained in the '014 application have already been published (petition, pages 5-8) and, if not, the Office can employ protective measures to prevent the disclosure of any trade secret, proprietary, or protective order materials in the '014 application (petition, pages 11-12); and (2) access is warranted because MercExchange is using its applications to interfere with petitioner's business and customers (petition, pages 8-11).

OPPOSITION

An opposition filed by applicant on February 2, 2007 asserts that petitioner's position regarding the existence of special circumstances is without merit. Specifically, applicant notes that eBay has failed to demonstrate that MercExchange has made threats based upon the '014 application to interfere with eBay's business and customers or any other "special circumstances." Additionally, applicant has asserted the existence of a protective order, which is supported by attachment #1 submitted with the opposition. Finally, applicant asserts that petitioner's request for access exceeds the scope of the protective order.

DECISION

MPEP 103 (V) notes that special circumstances have been found if an applicant used their application to interfere with a competitor's business or customers.

Lacking Trade Secrets Basis for Access

Regarding the first grounds, petitioner asserts access should be granted because the written description of the '014 application has already been published by dint of issued US Patent No. 5,845,265. The '014 application claims benefit to the '265 patent and both claim benefit to application 08/427,820, i.e. the ultimate original application. As the '014 application is not identified as a continuation-in-part application, it should be identical to the common disclosure of the '820 application, which is open to the public based on the '265 patent's benefit claim to the '820 application.

The mere existence of a published patent or application in a series of benefit claims in an application is not a fact that is viewed as constituting "special circumstances" for granting access to an application that is not available to the public. See MPEP 103(V). The fact that the '014 application can no longer contain trade secret material is not a basis upon which access is granted under special circumstances. Applicant of the '014 application is entitled to the confidentiality afforded by 35 USC § 122 and 37 CFR § 1.14 unless petitioner can show special circumstances that warrant stripping away the statutory right to confidentiality, which is further supported by the rule. Petitioner's reliance on an alleged lack of any remaining trade secret information in the '014 application is an insufficient basis upon which to grant petitioner, as a member of the public, access to the '014 application, in light of the statutory mandate of confidentiality established by Congress under 35 USC § 122(a). Therefore, regardless of the lack of trade secrets in the '014 application, the public does not have a right to preview the claims in a pending, unpublished application.

A previous version of 37 CFR § 1.14, effective December 1, 1997, did permit access by the public to abandoned applications, which claimed benefit to an application that was open to public inspection. Access was permitted to abandoned applications that, by way of a 35 USC § 120 benefit claim, were child applications of an application open to public inspection. [1,2]

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[1] See 37 CFR 1.14(e)(2)(i) or (ii):

> Public access to a pending or abandoned application. Access to an application may be provided to any person if a written request for access is submitted, the application file is available, and any of the following apply:
> * * * * *

However, even under that version of the rule, pending applications, such as the '014 application, were expressly excluded from this possibility of access.[3] 37 CFR § 1.14 has since been further amended, eliminating public access to even abandoned child applications of patent applications which are open to the public.[4] Therefore, by operation of 37 CFR § 1.14 the '014 application retains a statutory right of confidentiality as outlined in 35 USC §122(a), regardless of the fact that published patent '265 exists in the '014 application's benefit claims.

Interference with Business and Customers Basis for Access

Regarding the second grounds, petitioner alleges that applicant is using a family of issued patents and patent applications, of which the '014 patent application is a member, to interfere with petitioner's businesses and customers. The petition also includes several exhibits which contain a copy of a Patent Enforcement Agreement, excerpts of a Motion in Limine memoranda, transcripts from related trial court litigation proceedings, news articles discussing related litigation, and a 37 CFR § 1.132 declaration made by Mr. Woolston in a related patent examination proceeding, the '820 application.

The reliance by an applicant upon a pending application to interfere with the business and customers of a competitor may constitute a "special circumstance" to justify access to a pending, unpublished application. Petitioner, however, has not established such a case of special circumstances.

Petitioner is asserting that applicant is using an entire patent and patent application family to interfere with petitioner's business and customers. (Petition at page 10, lines 1-2). Petitioner does not focus on how the '014 application is being used to interfere with petitioner's business and customers. Petitioner states, "MercExchange has nonetheless attempted for years to use [the] '014 application and its family to interfere with eBay's business and customers." (Petition at page 8, lines 16-18). Thereafter, petitioner focuses on evidence and arguments related to the broad assertion that the '014 application's patent family was used against petitioner, namely the issued patents. Additionally, Petitioner makes an oblique assertion that by enforcing issued patents, which are related to the '014 application, an applicant thereby is using the '014 application to interfere with petitioner's business and customers. Petitioner states that MercExchange is interfering with petitioner's business by asserting in court three issued patents against petitioner, the '176 patent, the '051 patent and the '265 patent, which are all in the '014 application's family. (Petition at page 10, lines 1-7). Filing a civil action for patent infringement in the federal courts, however, is one course of action a patent owner may legitimately take against an alleged infringer in order to protect the property rights of their patent grant.

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(2) The application is abandoned, it is not within the file jacket of a pending application under § 1.53(d), and it is referred to:
(i) In a U.S. patent; or
(ii) In another U.S. application which is open to public inspection either pursuant to § 1.11(b) or paragraph (e)(2)(i) of this section.

62 Fed. Reg. 53131, 53182 October 10, 1997, effective December 1, 1997.

[2] See Changes to PTO Practice and Procedure – Final Rule Questions and Answers Effective Date: December 1, 1997, Question 85, answer subsection 3. Copy attached to this decision.

[3] *Id.*

[4] 37 CFR 1.14(a)(1)(iv) and (v)

Petitioner does not provide any direct evidence to support their assertion that applicant used the '014 application to interfere with petitioner's business and customers. Instead, petitioner provides exhibits that support the fact that the applicant of the '014 application is only using issued patents against petitioner, which just so happen to be related to the '014 application. None of the exhibits provided support that applicant is using the '014 application to interfere with petitioner's business and customers.

Petitioner's only direct argument relating to the '014 application, not withstanding the alleged attempt by applicant for years to interfere with petitioner's business and customers, is a statement that "MercExchange represented to the media that its pending patent applications were a strategic threat to eBay and its customers." (Petition at page 10, lines 12-13). The argument is alleged to be supported by Exhibit K (Anitha Reddy, *Ruling Prompts EBay To Revise Earnings,* Wash. Post, Aug. 12, 2003 at E05). Petitioner quoted the article's closing paragraph "Woolston also said that he is confident MercExchange will eventually be able to sue eBay for infringing a patent related to online auction technology." The entire article, to include the quote noted by petitioner, is devoid of any citation to the '014 application in any way, nor is it clear that the reference to "online auction technology" was intended to refer to the '014 application or any other application then pending. Therefore, based upon the evidentiary submission by petitioner of the August 12, 2003 Washington Post article, the '014 application appears not to have been used in a threatening manner against petitioner's business and its customers.

In regards to MercExchange's enforcement agreement with Aden Enterprises, Inc., the agreement is devoid of any agreement to use the '014 application in a threatening manner against eBay and its customers. The agreement does note that MercExchange and Aden are to cooperate in patent infringement actions against eBay; however the agreement limits such legal actions to issued patents or granted patent applications. Therefore, the agreement does not include the initiation of any legal action against eBay wherein a currently pending application will be used as the basis of any suit, *e.g.,* the '014 application.

Finally, in regard to the 37 CFR § 1.132 declaration executed by Mr. Woolston and submitted to the Office in the '820 application, the declaration is devoid of any threats or assertions that the '014 application was to be used in a threatening manner against eBay and its customers.

In the absence of direct evidence to the contrary, applicant's actions in regard to the '014 application appear not to have exceeded the bounds of propriety or amount to anything more than what applicant has a right to do with their issued patents that are related to the '014 application. Therefore, without a proper showing of special circumstances the petition cannot be granted.

Litigation

When a matter is in litigation, the Office generally defers to the court's discretion as to whether or not and under what conditions one litigant should have access to another litigant's pending applications, not withstanding any special circumstances.

The petition is **DISMISSED.**

CONCLUSION

1. Petitioner's request for access to application 09/253,014 is DISMISSED.

2. Inquiries relating to this matter may be directed to Joseph F. Weiss, Jr., Legal Advisor, at (571) 272-7759.

HIRAM BERNSTEIN
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Encl.
Changes to PTO Practice and Procedure –
Final Rule Questions and Answers Effective Date:
December 1, 1997, Question 85, answer subsection 3.

CHANGES TO PTO PRACTICE AND PROCEDURE - FINAL RULE
QUESTIONS AND ANSWERS
Effective Date: December 1, 1997

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filed after the effective date of the rule?

Answer: No. The changes to the rules with respect to deceptive intent will apply not only to applications filed after the effective date of the rule, but also to earlier-filed applications that are pending on the effective date of the rule. (See "Reissue Practice" Section for a question relating to the sufficiency of a reissue oath or declaration.)

III. CONFIDENTIALITY OF APPLICATIONS - 37 C.F.R. § 1.14

(Q85) Which *abandoned* applications may be released to the public without a power to inspect or a granted petition for access?

Answer: An abandoned application that is in the file jacket of a pending application under 37 C.F.R. § 1.53(d) (*i.e.*, a CPA) may *not* be released to a requester without a power to inspect or a granted petition for access, unless the requester is the applicant or assignee. *Abandoned* applications (other than those inside a CPA) which may be released to the public are as follows:

1. abandoned applications which are referred to in the text of a U.S. patent;
2. abandoned applications which are referred to in an application (either in the prosecution history or in the text of the application) that is open to public inspection (for example, a patent file, a reissue, an abandoned application that claims priority under 35 U.S.C. § 120 to an application that has issued as a patent, an abandoned application that is referred to in the text of a patent or in an application that is open to public inspection);
3. abandoned applications which claim the benefit of an application that is open to public inspection - that is, one that claims § 120 priority to, or is a child application of, an application that is open to public inspection (the PALM 2962 transaction can be used to determine continuity data); or
4. abandoned applications which have been laid open by the applicant.

(Q86) If an application is referred to in the text of a patent, can access to the application be given to a member of the public who is not the applicant?

Answer: Maybe. If the application is *pending*, then the pending application should *not* be released without a petition decision granting access to the member of the public or a power to inspect. If the application is *abandoned*, then 37 C.F.R. § 1.14(a)(3)(iv)(A) permits the member of the public to obtain access to or copies of the abandoned application, except if it is in the file of a CPA.

(Q87) What if the *pending* application is incorporated by reference in the patent?

Answer: As long as the application is *pending*, then the pending application file should *not* be released without a petition decision granting access to the member of the public or a power to inspect. However, 37 C.F.R. § 1.14(a)(2) provides that a member of the

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Paper No. 14

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OFFICE OF PETITIONS

In re Application of	:	
Matthew R. Jorgensen	:	
Application No. 09/253,110	:	ON PETITION
Filed: February 19, 1999	:	
Attorney Docket No. JRE 301	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed September 12, 2000, which set a shortened statutory period for reply of three (3) months. An Amendment was filed on December 9, 2000, but did not place the application in condition for allowance. Accordingly, the application became abandoned on December 10, 2000.

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 application is being forwarded to Technology Center AU 3724 for further processing.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond

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

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OFFICE OF PETITIONS

Pierre C. Van Rysselberghe
520 SW Yamhill Street, Suite 200
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In re Application of	:	
Matthew R. Jorgensen	:	
Application No. 09/253,110	:	ON PETITION
Filed: February 19, 1999	:	
Attorney Docket No. JRE 301	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 2, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned as a result of petitioner=s failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed August 19, 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 October 20, 2002. See MPEP 1215.04.

The application file is being forwarded to Technology Center AU 3724 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

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for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Schwabacher :
Application No. 09/253,153 :
Filing Date: 19 February, 1999
Attorney Docket No. 2003118-0002 (T00001US) :

This is a decision on the petition filed on 26 January, 2004, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 11

February, 2003, with reply due absent extension of time on or before Monday, 12 May, 2003;

- Notice of Abandonment was mailed on 21 November, 2003;
- with the instant petition, Petitioner filed an after-final amendment, however, it was deemed by the Examiner not to be a proper reply to the final Office action.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not

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[1] The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has failed to provide a proper reply, as required by regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

By mail: (Effective 1 May, 2003)[8]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
220 20th Street S.
Arlington, VA 22202

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[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior 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

JJGJR.: 09-04

Paper No: __

KAROLINE K M SHAIR
CHOATE HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON MA 02109

COPY MAILED
SEP 13 2004
OFFICE OF PETITIONS

In re Application of
Schwabacher :
Application No. 09/253,153 :
Filing Date: 19 February, 1999
Attorney Docket No. 2003118-0002 (T00001US) :

DECISION ON PETITION

This is a decision on the renewed petition filed on 6 August, 2004, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 11 February, 2003, with reply due absent extension of time on or before Monday, 12 May, 2003;

- Notice of Abandonment was mailed on 21 November, 2003;

- the original petition filed 26 January, 2004, was dismissed on 14 July, 2004, for failure to file a proper reply–Petitioner filed an after-final amendment, which was deemed by the

Examiner not to be a proper reply to the final Office action;[1]

- with the instant petition, Petitioner files a Request for Continued Examination (with fee) under 37 C.F.R. §1.114, and the amendment previously submitted is considered as the required submission.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] The proper response to the final Office action (see: MPEP 711.03(c)) must be in the form of: (a) an amendment *prima facie* placing the application in condition for allowance; (b) a Notice of Appeal; or (c) a Request for Continued Examination (RCE) (with fee and submission) under 37 C.F.R. §1.114.

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to Unintentional Delay

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner now has submitted a proper reply, as required by regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 1600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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 - 1 2000

THM

Paper No. 7

Applicant: Gary A. Harpell et al.
Serial No. 09/253,245
Filed: February 19, 1999
For: FLEXIBLE FABRIC FROM FIBROUS WEB AND DISCONTINUOUS DOMAIN MATRIX

DECISION ON PETITION

This is a decision on the PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. 1.48(a), filed January 27, 2000, to correct inventorship. It is noted that the patentee has met the requirements of: (1) a petition including declarations by the original named inventor and the inventor being added, establishing the error without deceptive intent and (2) the fee set forth in 37 C.F.R. 1.17(i).

The petition is **GRANTED**.

The file will be forwarded to the Examiner in charge to take up for action in due course.

Terrel Morris
Supervisory Patent Examiner
Art Unit 1771
Technology Center 1700
Chemical Materials & Engineering

Virginia S. Andrew
AlliedSignal, Inc
P.O. Box 31
Petersburg, VA 23804

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

JUL 18 2001

William Thomas Babbitt
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
Seventh Floor
12400 Wilshire Boulevard
LOS ANGELES, CA 90025

In re Application of GARDNER et al. Application No. 09/253,306 Filed: February 19, 1999 For: INTERCONNECTION ALLOY FOR INTEGRATED CIRCUITS	))))))	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition under 37 CFR § 1.137(a), filed on April 9, 2001, which petition is being treated as a petition under 37 CFR § 1.8(b) to withdraw the holding of abandonment of the above-identified application. No fee is required for this petition.

The petition is **GRANTED**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of May 8, 2000. A Notice of Abandonment was mailed on March 21, 2001.

Petitioner states that a timely response was mailed via certificate of mailing on August 8, 2000. The petition complies with 37 CFR § 1.8(b) in that (1) the Office was promptly informed of the previous timely mailing, (2) a copy of the previously mailed correspondence with certificate of mailing thereon has been supplied, and (3) a declaration which attest to the previous mailing has been submitted. In addition, petitioner has submitted a copy of a return postcard which acknowledges receipt of an amendment by the Patent and Trademark Office on August 15, 2000.

For the above stated reasons, the Notice of Abandonment mailed on March 21, 2001 is hereby vacated and the holding of abandonment withdrawn. The copy of the amendment submitted on April 9, 2001 is accepted, since the Office has apparently misplaced the response to the Office action originally submitted.

The application file is being forwarded to the technical support staff for Technology Center 2800 for processing of the response submitted on April 9, 2001.

Henry Phan

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

JUN 11 2009

OFFICE OF PETITIONS

In re Application of :
Shinichi Hatae et al :
Application No. 09/253,783 : ON PETITION
Filed: February 22, 1999 :
Attorney Docket No. 03500.013342.

This is a decision on the petition, filed June 10, 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 May 6, 2009 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 2419 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

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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. 6332363
Issue Date: December 25,2001
Application No. 09254096
Filed: October 15,1999
Attorney Docket No. 20521/220

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

This is a decision on the electronic petition, filed April 12,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 12,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6332363	2001-12-25	09254096	1999-10-15	7881.37b

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Evan R. Witt/	Date (YYYY-MM-DD)	2007-04-12
Name	Evan R. Witt	Registration Number	32512

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE MAXHAM FIRM
750 "B" STREET, SUITE 3100
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of	:	
Schwarte, Rudolf	:	
Application No. 09/254,333	:	ON PETITION
Filed: March 4, 1999	:	
Attorney Docket No. 1184-6LAM	:	

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) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 20 2005

OFFICE OF PETITIONS

DAVID A JACKSON
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

Paper No. 12

In re Application of	:	
Victor HIGGS et al.	:	
Application No. 09/254,521	:	ON PETITION
Filed: March 8, 1999	:	
Attorney Docket No. 7143	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 5, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 6, 2000.

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[1]; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 21, 2004 is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

[1] In accordance with 37 CFR 1.4 the reply should be filed as a separate paper; however, a copy of the reply, attached as Exhibit A of the petition, is being treated as the required reply.

Application No. 09/254,521

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2877 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

CC: PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

UNITED STATES 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

Victor Bronshtein
5008 Almondwood Way
San Diego CA 92130

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APR 21 2005
OFFICE OF PETITIONS

In re Application of Victor Bronshtein Application No. 09/254,563 Filed: March 5, 1999 Attorney Docket Number: UPTINC.015A Title: SHELF PRESERVATION OF CELLS, TISSUES, ORGANS AND ORGANISMS BY VITRIFICATION	DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed October 12, 2004, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 9, 2002, 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 July 10, 2002. A Notice of Abandonment was mailed November 18, 2002.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. §

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.

1.137(b) is set forth in 37 C.F.R. §1.17(m) as being $1500 for a large entity and $750 for a small entity. Petitioner included $670 with his petition. As such, an additional $80 will be required to submit the petition fee in full. Therefore, requirement number (2) has not been met.

The payment of the required petition fee in full is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[2]

In view of the foregoing, this petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

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

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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

---

[2] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

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

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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APR 2 1 2005
OFFICE OF PETITIONS

Victor Bronshtein
5008 Almondwood Way
San Diego CA 92130

In re Application of	:	
Victor Bronshtein	:	
Application No. 09/254,563	:	DECISION ON PETITION
Filed: March 5, 1999	:	UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: UPTINC.015A	:	
Title: SHELF PRESERVATION OF CELLS,	:	
TISSUES, ORGANS AND ORGANISMS BY	:	
VITRIFICATION	:	

This is a decision on the petition filed October 12, 2004, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 9, 2002, 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 July 10, 2002. A Notice of Abandonment was mailed November 18, 2002.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. §

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.

1.137(b) is set forth in 37 C.F.R. §1.17(m) as being $1500 for a large entity and $750 for a small entity. Petitioner included $670 with his petition. As such, an additional $80 will be required to submit the petition fee in full. Therefore, requirement number (2) has not been met.

The payment of the required petition fee in full is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[2]

In view of the foregoing, this petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

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

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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

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[2] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

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

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. None

Victor Bronshtein
5008 Almondwood Way
San Diego CA 92130

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of
Victor Bronshtein
Application No. 09/254,563
Filed: March 5, 1999
Attorney Docket Number: UPTINC.015A
Title: SHELF PRESERVATION OF CELLS, TISSUES, ORGANS AND ORGANISMS BY VITRIFICATION

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the renewed petition filed May 9, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 9, 2002, 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 July 10, 2002. A Notice of Abandonment was mailed November 18, 2002.

The original petition was submitted on October 12, 2004, and was dismissed via the mailing of a decision on April 21, 2005, which indicated that Petitioner has not submitted the petition fee in full (Petitioner has submitted $670 when $750 was due).

With this renewed petition, Petitioner has submitted an additional $15.

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.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b) is set forth in 37 C.F.R. §1.17(m) as being $1500 for a large entity and $750 for a small entity. Petitioner included $670 with the original petition, and an additional $15 with this renewed petition. As such, an additional $65 will be required to submit the petition fee in full. Therefore, requirement number (2) has not been met.

The payment of the required petition fee in full is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[2]

In view of the foregoing, this petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski. Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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[2] "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

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

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

Victor Bronshtein
5008 Almondwood Way
San Diego CA 92130

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SEP 01 2005

OFFICE OF PETITIONS

In re Application of
Victor Bronshtein
Application No. 09/254,563
Filed: March 5, 1999
Attorney Docket Number: UPTINC.015A
Title: SHELF PRESERVATION OF CELLS, TISSUES, ORGANS AND ORGANISMS BY VITRIFICATION

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the second renewed petition filed August 5, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 9, 2002, 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 July 10, 2002. A Notice of Abandonment was mailed November 18, 2002.

The original petition was submitted on October 12, 2004, and was dismissed via the mailing of a decision on April 21, 2005, which indicated that Petitioner had not submitted the petition fee in full (Petitioner submitted $670 when $750 was due). With the renewed petition, submitted on May 9, 2005, Petitioner submitted only $15 of the $80 that was due. As such, the petition was dismissed via the mailing of a decision on July 27, 2005.

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.

With the original petition, Petitioner submitted an amendment and the proper statement of unintentional delay. With this present petition, Petitioner has submitted the petition fee in full.

As such, the petition is **GRANTED**.

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
PO Box 1450
Arlington, VA 22313-1450
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Paper No. 18

J. George Seka
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Reiner Weber et al.	:	
Application No. 09/254,743	:	ON PETITION
Filed: May 28, 1999	:	
Attorney Docket No. 88724	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 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 Notice of Non-Responsive Amendment filed October 2, 2002, which set a shortened statutory period for reply of (1) One Month. No extensions of time under the provisions of 37 CFR 1.136(a) have been obtained. Accordingly, the application became abandoned on November 3, 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 3743 for further processing.

Latrice Bond

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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052005

THOMAS A. BECK, ESQ.
26 Rockledge Lane
New Milford CT 06776

MAY 2 4 2005

In re Application of:
Brian Samuel Beaman et al.
Serial No.: 09/254,769
Filed: March 11, 1999
Attorney Docket No. YO996-184N

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed March 25, 2005, to withdraw the holding of abandonment of the above-identified application, or in the alternative, to revive the application under 37 C.F.R. § 1.137(a)[1].

The petition is DENIED.

This application was held abandoned for failure to timely file a reply within the meaning of 37 C.F.R. § 1.113 to the final Office action of April 8, 2004. A Notice of Abandonment was mailed on March 15, 2004.

Petitioner asserts that a reply was filed on July 8, 2004 before the shortened statutory period set in the final Office action expired. Petitioner received an Advisory Action response to petitioner's reply on February 10, 2005, four months after the maximum statutory period for reply to the final Office action has expired. Upon receipt of the Advisory Action, petitioner immediately submitted an amendment on February 10, 2005. On March 18, 2005, petitioner received a Notice of Abandonment dated March 15, 2005, which indicates that the reply filed February 10, 2005, was received after the statutory period for replied has expired on July 8, 2004.

Petitioner stated that it was petitioner's intention to discuss the few non-allowed and to pay any applicable extension of time fee necessary claims after receipt of the Advisory Action. Petitioner

[1] This decision addresses the petition to withdraw the holding of abandonment only. The Office of the Deputy Commissioner for Patent Examination Policy will address a decision on the alternative petition to revive under 37 C.F.R. § 1.137(a).

asserts that the delay in issuing the Advisory Action should not be held at the detriment of the applicants as they did respond promptly within the three-month period.

A review of the file record indicates that a reply to the final Office action was timely submitted July 8, 2004, and an Advisory Action was not issued until February 7, 2005. Another reply was submitted February 10, 2005, but was not considered by the examiner as indicated in the Notice of Abandonment mailed March 10, 2005. No extension of time was requested after the final Office action and no Notice of Appeal was filed.

STATUTE, REGULATIONS AND PRACTICE

37 C.F.R. § 1.113(a) states in part that:

> (a) On the second or any subsequent examination or consideration the rejection or other action may be made final, whereupon applicant's ... reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or § 1.116...

37 C.F.R. §§ 1.116(a) and (b) state that:

> (a) An amendment after final action must comply with § 1.114 or this section.
>
> (b) After final rejection or other final action (§ 1.113) in an application ... but before or on the same date of filing an appeal (§ 41.31 or 41.61 of this title):
>
> (1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;
>
> (2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or
>
> (3) An amendment touching the merits of the application ... may be admitted upon showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.
>
> (c) The admission of, or refusal to admit, any amendment after final rejection, a final action ... will not operate to relieve the application ... from its condition as subject to appeal or save the application from abandonment under § 1.135 ...

OPINION

The reply to the final Office action filed on July 8, 2004 was timely submitted. The issue to be determined is whether the reply constitutes a proper response to the final Office action within the meaning of 37 C.F.R. § 1.113 and thus stopped the statutory period for reply set in the final Office action. The reply filed July 8, 2004 did not place the application in condition for allowance as evidenced by the Advisory Action mailed February 7, 2005, refusing entry of the amendment.

Under current practice, after an Office action is made final, it is incumbent upon an applicant to take appropriate steps to ensure against the abandonment of his/her application. Because the reply to the final Office action submitted is not deemed to place the application in condition for allowance, the reply required may be a Notice of Appeal or the filing of a Request for Continued Examination (RCE) and requisite fees. Because the reply filed July 8, 2004 did not place the application in condition for allowance and a Notice of Appeal or an RCE was not filed within the maximum statutory period for reply, the statutory period set in the final Office action continued to run from its mail date. While it is regrettable that the USPTO did not timely consider the proposed after final amendment and did not issue an Advisory Action before the expiration of the maximum statutory period, there is no provision in the statute or rule that permits stopping or resetting a statutory period in an Advisory Action as requested by petitioner.

The amendment of February 10, 2005 was not timely filed because it was submitted after the maximum statutory period for reply set in the final Office action has expired and after the application became abandoned. Because this abandonment occurred by operation of law, the USPTO lacks authority to waive or suspend a requirement of the statute or an operation of law and consider this amendment.

In view of the absence of a timely filing of an amendment that places the application in condition for allowance, of a Notice of Appeal, or of an RCE, the application became abandoned by operation of law. The petition under 37 C.F.R. § 1.181 to withdraw the folding of abandonment cannot be granted.

CONCLUSION

The petition to withdraw the holding of abandonment is denied.

The application is being referred to the Office of the Assistant Commissioner for Patent Examination Policy, Office of Petitions, for a decision on the alternative petition to revive under 37 C.F.R. § 1.137(a).

Questions regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Sharon Gibson, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JJGJR.: 07-06

Paper No: __

THOMAS A. BECK, ESQ.
26 ROCKLEDGE LANE
NEW MILFORD CT 06776

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JUL 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Beaman, et al.	:	
Application No. 09/254,769	:	DECISION
Filing Date: 11 March, 1999	:	
Attorney Docket No.: YO996-184N	:	

This is a decision on the petition filed on 19 June, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the final Office action mailed on 8 April, 2004, with reply due absent extension of time on or before 8 July, 2004;
- on 8 July, 2004, Petitioner submitted an amendment after final, which is not of right–the Examiner found that it was not a proper reply,[1] and mailed an Advisory action on 7 February, 2005;
- on 10 February, 2005, Petitioner submitted a second after final–which is not of right–the

[1] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

Examiner found that it was not a proper reply,[2] and refused to enter the amendment;

- the instant application went abandoned after midnight 8 July, 2004;
- the Office mailed a Notice of Abandonment on 15 March, 2005;
- on 25 March, 2005, Petitioner filed a request to withdraw the holding of abandonment, which request the Group Director denied on 24 May, 2005;
- on 19 June, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of an amendment after final, which the Examiner has indicated he will enter, and Petitioner made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that:

- the practice of using the former one- (1-) year deadline following abandonment as an unpaid extension of time is an unacceptable practice and gives the appearance of intentional delay; and
- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[2] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c).)

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

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increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt,[9] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The record (including the petition filed on 19 June, 2006) does not necessitate a finding that the delay between midnight 8 July, 2004 (date of abandonment), and 19 June, 2006 (date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioners Erickson, Jurrius and McCoy and Counsel Thomas A. Beck (Reg. No. 20,8160) when accepting Petitioners' representation that the delay in filing the response was unintentional.[11]

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

---

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[10] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[11] 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).

The instant application is released to the Examiner in Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 1 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

VENABLE
1100 NEW YORK AVENUE NW
SUITE 300 EAST
WASHINGTON DC 20005-3955

In re Application of
Shinji Usuba, et al.
Application No. 09/254,864
Filed: March 15, 1999
For: **LINE CONCENTRATOR FOR TELEPHONE SET AND COMMUNICATION METHOD OF LAN**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Holding of Abandonment which is treated as pursuant to 37 C.F.R. §1.181, filed April 23. No fee is required.

The petition is **DENIED.**

This application became abandoned due to failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed November 18, 2003. A Notice of Abandonment was mailed on April 1, 2004.

Petitioner has alleged non-receipt of the Notice of Allowance and Issue Fee Due. In the petition, the petitioner has provided a statement that the Notice was not received by the petitioner and a copy of the docket record where the non-received Office action would have been entered had it been received and docketed.

MPEP § 711.03(c) Petitions Relating to Abandonment, states in part:...

> II. PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION
> The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that:
> (a) the Office communication was not received by the practitioner;
> (b) attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
> Moreover, 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.

As mentioned, Petitioner states that the Notice of Allowance and Issue Fee Due was not received and also references a docket log within their petition. Moreover, the petition does state:

"However, a search of the file jacket and docket records indicates that no Notice of Allowance has been received by the Office of the undersigned". What is not clear from the petition is if this is a statement from the Practitioner or the Applicant. The requirements of a successful petition to withdraw the holding of abandonment requires the statement from the Practitioner attesting to a personal search of the file jacket and docket records and indicating that the office communication was not received.

It is also noted that Petitioner requested that the docket record be held separate and apart from the application file due to potential confidential nature of certain of the entries. Unfortunately, the docket record submitted is part of the petition and can not be kept separate from the application file. It is suggested that Petitioner file a redacted copy of the docket record along with the request for reconsideration, to replace the originally submitted docket record.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision and include the statement from the Practitioner as outlined above.

The file is being forwarded to the file repository.

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
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Paper No. 17

VENABLE
1100 NEW YORK AVENUE NW
SUITE 300 EAST
WASHINGTON DC 20005-3955

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Shinji Usuba et al. :
Application No. 09/254,864 :
Filed: March 15, 1999 : DECISION ON RENEWED PETITION
Title: LINE CONCENTRATOR FOR : UNDER 37 C.F.R. §1.181(A)
TELEPHONE SET AND COMMUNICATION :
METHOD OF LAN :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on October 19, 2004, with a supplement received on February 10, 2006.

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

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed November 18, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue fees[1]. Accordingly, the above-identified application became abandoned on February 19, 2004. A notice of abandonment was mailed on April 1, 2004.

The original petition was submitted on April 23, 2004, and was dismissed via the mailing of a decision on August 19, 2004. With this renewed petition, Petitioner has submitted additional evidence, which has been deemed to be persuasive.

The renewed petition is **GRANTED**. The holding of abandonment is hereby WITHDRAWN.

1 See MPEP §710.02(e).

The Technology Center will be notified of this decision. The Technology Center's support staff will mail a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability. The three month non-extendable time period for paying the issue fee will be set to run from the mailing date of the Notice.

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
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: AUG - 6 2001

VJ
Paper No.: 12 11

In re application of
Joel L. MARTIN
Serial No.: 09/255,213
Filed: February 22, 1999
For: CATALYST AND PROCESS FOR POLYMERIZING OLEFINS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.144 filed on June 29, 2001 to request withdrawal of the restriction requirement in the present application.

DECISION

In light of the examiner's decision to rejoin non-elected claims 11-18 to the elected invention, and pass all claims to issue, the petition is rendered moot. See paragraph 4 of the Reasons for Allowance attached to the Notice of Allowability mailed July 17, 2001 in Paper No. 10.

The petition is DISMISSED.

Richard V. Fisher

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

RICHMOND HITCHCOCK FISH & DOLLAR
P. O. Box 2443
Bartlesville, Oklahoma 74005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE MA 02142

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JUL 02 2010

OFFICE OF PETITIONS

In re Patent No. 6,060,142	:	
Issue Date: May 9, 2000	:	
Application No. 09/255,243	:	ON PETITION
Filed: February 22, 1999	:	
Attorney Docket No. C2097-700119	:	

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

The petition is **GRANTED**.

This patent expired on May 10, 2008 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

The patent file is being forwarded to Files Repository.

Terri Johnson
Petitions Examiner
Office of Petitions

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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LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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MAY 18 2004

OFFICE OF PETITIONS

In re Application of
Hidehiko Komatsu et al
Application No. 09/255,323
Filed: February 23, 1999
Attorney Docket No. UO12114-9

DECISION GRANTING PETITION
UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed May 18, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 2, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 1714 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).

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)
6,272,349	2001-08-07	09/255,590	1999-02-22	8822.60039

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher P. Maiorana/	Date (YYYY-MM-DD)	2009-12-21
Name	Christopher P. Maiorana	Registration Number	42829

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 6272349
Issue Date: August 7,2001
Application No. 09255590
Filed: February 22,1999
Attorney Docket No. 8822.60039 / 17219

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

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

The petition is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6063144
Issue Date: May 16,2000
Application No. 09255951
Filed: February 23,1999
Attorney Docket No. 99026

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

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

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 5,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6063144	2000-05-16	09255951	1999-02-23	30066.100

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James P. Broder/	Date (YYYY-MM-DD)	2010-05-05
Name	James P. Broder	Registration Number	43514

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

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

DEC 16 2002

Mailed:

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Paper Number 27

In re application of
Marie Angelopoulos et al.
Serial No. 09/256,034
Filed: February 23, 1999
For: MULTILAYERED RESIST SYSTEMS USING TUNED POLYMER FILMS AS UNDERLAYERS AND METHODS OF FABRICATION THEREOF

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW NOTICE OF ABANDONMENT, filed October 31, 2002, which requests that the abandonment of October 21, 2002 be withdrawn since the appellants did timely respond to the Notice of Noncompliance with 37 CFR 1.192.

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. Appellants responded to the Notice of Noncompliance with 37 CFR 1.192 of November 20, 2001 by filing a substitute appeal brief on February 6, 2002 in which authorization was granted to charge any necessary fee and the period for extending time under 37 CFR 1.136 had not expired.

It is noted in the Notice of Abandonment of October 21, 2002, the examiner held the application abandoned for appellant's failure to timely file a proper reply to the Office letter mailed on November 17, 2000. This was in error because appellants did respond timely to the Office letter mailed on November 17, 2000 by filing a Notice of Appeal on May 15, 2001 and paying the requisite extension of time fee.

The application will be forwarded to the examiner for consideration of the appeal brief filed February 6, 2002.

The Petition is **GRANTED**.

Richard V. Fisher

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

DANIEL P MORRIS
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DANIEL P MORRIS
IBM CORPORATION
INTELLECTUAL PROPERTY LAW DEPT
P O BOX 218
YORKTOWN HEIGHTS NY 10598

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OFFICE OF PETITIONS

In re Application of	:	
Angelopoulos et al.	:	
Application No. 09/256,034	:	DECISION ON PETITION
Filed: March 23, 1999	:	
Attorney Docket No. YO998-056	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

The person signing the instant petition requests a change of correspondence address to the address associated with Customer Number 00877. There is, however, no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence with be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing 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. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

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

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

THOMAS A. BECK
6136 WEST KIMBERLY WAY
GLENDALE, AZ 85308

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAH-BIN KAO
WINDBOND ELECTRONICS CORPORATION AMERICA
2727 NORTH FIRST STREET
SAN JOSE, CA 95134

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OFFICE OF PETITIONS

In re Application of	:	
Dah-bin Kao et al	:	
Application No. 09/256,265	:	ON PETITION
Filed: August 10, 2000	:	
Attorney Docket No. 16405-311	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 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)." 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 submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 15, 2004.

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 issue fee has been received. There is, however, no indication that corrected formal drawings as required by the Notice of Allowability of April 14, 2004 have been submitted. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

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

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

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

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

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

Wan Laymon

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DAH-BIN KAO
WINDBOND ELECTRONICS CORPORATION AMERICA
2727 NORTH FIRST STREET
SAN JOSE, CA 95134

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OFFICE OF PETITIONS

In re Application of	:	
Dah-Bin Kao et al	:	
Application No. 09/256,265	:	ON PETITION
Filed: February 23, 1999	:	
Attorney Docket No. 16405-311	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The drawings filed on March 23, 1999 and January 4, 2005 have been approved by the Draftsperson. A copy of the Notice of Draftsperson's Patent Drawing Review (PTO-948) is attached.

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

This matter is being referred to the Publishing Division.

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

Attachment: PTO-948

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

March 26, 2002

Robert W. Fieseler
McAndrews, Held & Malloy
500 West Madison St.
34th Floor
Chicago, IL 60661

In re application of:
Jens Muller, et al DECISION ON PETITION
Serial No.: 09/256,386
Filed: February 24, 1999
For: FIRECT DIMETHYL ETHER FUEL CELLS

This is a decision on the petition received on September 10, 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 February 16, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned April 18, 2000. A notice of abandonment was mailed August 21, 2001.

On September 10, 200l, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney never received the Notice to File Missing Part mailed February 16, 2000.

The evidence is sufficient to establish that the petitioners did not receive the Notice to File Missing Parts of Application mailed February 16, 2000.

The petition is hereby GRANTED.

The surcharge of $130.00 has been charged to Deposit Account No. 13-0017.

The application has been completed for release to Technology Center 1745.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 9

MICHAEL M. MURRAY
MORGAN & FINNEGAN
345 Park Avenue
New York, New York 10154

MAILED
JUL 2 2 2003
Technology Center 2600

In re application of:
Taeko Tanaka
Application No. 09/256,411
Filed: February 24, 1999
For: IMAGING SENSING METHOD, IMAGE SENSING APPARATUS, LENS CONTROL METHOD THEREFOR, AND STORAGE MEDIUM

DECISION ON PETITION TO EXPUNGE

This is a decision on the petition under 37 C.F.R. § 1.59(b) and M.P.E.P. § 724.05 (III), filed by facsimile on July 10, 2003 requesting that a document submitted in an incorrect application be expunged.

A grantable petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure), filed under 37 C.F.R. § 1.59(b) and in accordance with M.P.E.P. § 724.05 (II and III), may be granted provided that: (A) the Office can effect such return prior to the issuance of any patent on the application in issue; (B) it is stated 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; (C) the information has not otherwise been made public; (D) there is a commitment on behalf of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (E) it is established to the satisfaction of the Commissioner that the information to be returned is not material information under 37 CFR 1.56; and (F) the petition fee set forth in 37 C.F.R. § 1.17(i) is included.

While the petition states that a check in the amount of $ 130 was provided; the petition was filed by facsimile and the check in the amount of $130 has not yet been received. Therefore, the necessary fee in the amount of $ 130 has been charged to applicant's Deposit Account 13-4503 as authorized in the petition.

While applicant has met the requirements set forth above, the Japanese Application No. 2002-104484 cannot be found in the instant application file.

Accordingly, the petition is **DISMISSED AS MOOT**.

If Japanese Application No. 2202-104484 is matched to the instant application after the mailing date of this decision, applicant may submit a renewed request to have it expunged.

Allen MacDonald

Allen MacDonald, 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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MAIL

APR 27 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

In re application of:
Taeko Tanaka
Application No. 09/256,411
Filed: February 24, 1999
For: IMAGING SENSING METHOD, IMAGE SENSING APPARATUS, LENS CONTROL METHOD THEREFOR, AND STORAGE MEDIUM

DECISION ON PETITION TO EXPUNGE

This is a decision on the renewed petition under 37 C.F.R. § 1.59(b) and M.P.E.P. § 724.05 (III), filed on January 25, 2005 requesting that a document submitted in an incorrect application be expunged.

A grantable petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure), filed under 37 C.F.R. § 1.59(b) and in accordance with M.P.E.P. § 724.05 (II and III), may be granted provided that: (A) the Office can effect such return prior to the issuance of any patent on the application in issue; (B) it is stated 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; (C) the information has not otherwise been made public; (D) there is a commitment on behalf of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (E) it is established to the satisfaction of the Commissioner that the information to be returned is not material information under 37 CFR 1.56; and (F) the petition fee set forth in 37 C.F.R. § 1.17(i) is included.

Applicant has met the requirements set forth above.

Accordingly, the petition is **GRANTED**.

The unintentionally submitted material (Japanese Application 2002-104484 filed June 2, 2003) has been expunged from the Official image file.

Reinhard Eisenzopf, Acting Director
Technology Center 2600
Communications

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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JUN 2 9 2000

SPECIAL PROGRAMS OFFICE
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Richard J. Rodrick
Becton Dickinson and Company
1 Becton Drive
Franklin Lakes, NJ 07417-1880

In re Application of
Zbigniew Darzynkiewicz et al.
Application No. 09/256,817
Filed: February 24, 1999
Attorney Docket No. P4194/BDIS-7

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 24, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 25, 1999, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 26, 1999.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to Technology Center 1600.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

cc: Susan A. Capello
2350 Qume Drive
San Jose, CA 95131

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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DOUGLAS A. PETRY, PHD
BD BIOSCIENCES
2350 QUME DRIVE
SAN JOSE, CA 95131

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JUL 1 4 2004
OFFICE OF PETITIONS

In re Application of	:	
Darzynkiewicz et al.	:	
Application No.: 09/256,817	:	ON PETITION
Filing Date: February 24, 1999	:	
Attorney Docket No.: P-4194/BDIS-7	:	

This decision concerns the May 13, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on March 6, 2004 for failure to timely submit corrected drawings as required by the December 5, 2003 Notice of Allowability.

The instant petition authorizes the USPTO to charge the $1,330 petition fee to Deposit Account No. 02-1666; encloses a set of corrected drawings that have been approved by the draftsperson; and states in essence that the entire delay in submitting the corrected drawings from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

In addition, the practitioner signing the instant petition uses a correspondence address different from that indicated in the January 13, 2004 Issue Fee Transmittal. All future correspondence on the issued patent will be mailed to the correspondence-address-of-record unless the USPTO is properly instructed otherwise.

The application file is being returned to the Office of Patent Publication for processing into a patent.

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

RC Tang
Petitions Attorney
Office of Petitions

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3/25/05

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 6821740

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

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

SHOULD TEXT BE ADDED TO COL. 5 LINE 61?

yes / seal 8/10/05

Thank You For Your Assistance

ME
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:

Christina Chan
SPE

1644
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

PTO/SB/44 (04-04)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,821,740 B2

DATED : Nov. 23,2004

INVENTOR(S) : Darzynkiewicz et al.

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

At column 5, following lines 61, insert the following text:

--Additional embodiments of the invention are as follows:

- the ability to reveal cell heterogeneity as a function of pRb phosphorylation, for example with respect to solid tumors, leukemias, and other proliferative disorders;
- the ability to reveal the presence of cell subpopulations differing in the degree of pRb phosphorylation (tumor heterogeneity) by looking at the phosphorylation of Rb in tumor tissue as a whole;
- the ability to detect rare cells within large cell populations that have either unphosphorylated and/or phosphorylated pRb, and differ from the population as a whole. Such differences may be in the pRb phosphorylation status or in some other marker;
- the ability to reveal kinetics of pRb phosphorylation within individual cells, for example to identify that pRb phosphorylation in mitogenetically stimulated lymphocytes was rapid, quantum-like, affecting all pRb within individual cells rather than proceeding stepwise over an extended period;
- the ability to correlate the status of pRb phosphorylation with cell cycle position without the need to synchronize cells in the study population;
- the ability to correlate the status of pRb phosphorylation with cell phenotype;
- the ability to correlate the status of pRb phosphorylation with any other cellular component which can be detected immunocytochemically, e.g. cyclins, inhibitors of cyclins-dependent kinase inhibitors, proliferation-associated antigens, etc., such determinations may be made at the same time as the pRb measurement as in multi-color flow cytometry or may be made sequentially on sorted or immobilized cells;

MAILING ADDRESS OF SENDER:

BD
1 Becton Drive, MC 089
Franklin Lakes, NJ 07417

PATENT NO. 6,821,740

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 FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

JAN 2 7 2005

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,821,740 B2

DATED : Nov. 23,2004

INVENTOR(S) : Darzynkiewicz et al.

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

Continuation (page 2) of text that should be inserted starting at column 5, after line 61:

- the ability to correlate the status of pRb phosphorylation with DNA replication, within the individual cell, by immunocytochemically detecting BrdU incorporation in the same cells in which pRb phosphorylation is measured;
- an antibody which recognizes the unphosphorylated form of Rb;
- a new method for monitoring pRb phosphorylation in individual cells and correlate the presence, absence or ratio of pRb phosphorylated to unphosphorylated, it with the cell cycle position;
- the use of two antibodies, one which preferentially recognizes the phosphorylated form and one which recognizes the unphosphorylated form, to determine the proportion of a given molecule which is phosphorylated (e.g. Rb/pRb);
- the use of antibodies to differentiate phosphorylated forms of the same protein, which would be useful for example in determining the biologically significant change in state of the cell itself, this would not be dependent on the phosphorylation site;
- an agent recognizing the SV40 large T binding region on Rb for purposes of screening antibodies or anti-tumor drugs;
- various diagnostic and prognostic applications with respect to monitoring tumors, as a predictor of tumor proliferation;
- use of the variable region structure of the underphosphorylated Rb specific antibody as a model for drug screening, evaluation, or design; as a model for an inhibitor of Rb; as an agent useful in gene therapy;

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Franklin Lakes, NJ 07417

PATENT NO. 6,821,740

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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 FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,821,740 B2

DATED : Nov. 23,2004

INVENTOR(S) : Darzynkiewicz et al.

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

Continuation (page 3) of text that should be inserted starting at column 5, after line 61:

- an antibody that recognizes status of phosphorylation of a protein based in change in conformation of this protein resulting from its phosphorylation or dephosphorylation rather than directly requiring phosphorylation or dephosphorylation of the epitope itself. Thus, the site(s) of phosphorylation is (are) not an epitope itself;
- an antibody which identifies non-cycling (G_0) cells. --

MAILING ADDRESS OF SENDER:

BD
1 Becton Drive, MC 089
Franklin Lakes, NJ 07417

PATENT NO. 6,821,740

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 FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

JAN 27 2005

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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,821,740 B2

DATED : Nov. 23,2004

INVENTOR(S) : Darzynkiewicz et al.

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

In claim 10, line 3, delete "detection" and insert therefor --then detecting--. OK

In claim 11, line 2, delete "mucleic" and insert therefor --nucleic--. OK

In claim 17, line 2, delete "conformation" and insert therefor --conformations--. OK

In claim 19, line 3, after "specific for a second" insert --protein--. OK see claim 15

In claim 30, line 8, after "said protein," delete "and" and insert therefor --said--. OK

MAILING ADDRESS OF SENDER:

BD
1 Becton Drive, MC 089
Franklin Lakes, NJ 07417

PATENT NO. 6,821,740

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 FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

JAN 27 2005

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,317,819	2001-11-13	09256961	1999-02-24	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

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

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

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Steven G. Morton/	Date (YYYY-MM-DD)	2007-11-01
Name	Steven G. Morton		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6317819
Issue Date: November 13,2001
Application No. 09256961
Filed: February 24,1999
Attorney Docket No. OXC9801-APP

:

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

:

This is a decision on the electronic petition, filed November 1,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 November 1,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 17 2000

July 28, 2000

#8

RHODES & MASON
P.O. BOX 2974
GREENSBORO, NC 27402

In re Application of	:	
Driggers	:	
Serial Number 09/256,981	:	DECISION ON PETITION
Filed February 24, 1999	:	
For Print-Receptive, Pill-Resistant,	:	
Knitted Fabric	:	

In the petition filed July 13, 2000, applicant requests that three black and white photographs be entered into the file of record. Applicant states that he believes the photographs "have sufficient quality so that all the details in the photographs will be reproducible in a printed patent." It is further stated that the specification is being amended accordingly with a concurrently filed amendment.

37 CFR 1.84(b)(1)(ii) states that the drawings will be accepted upon the granting of a petition and the receipt by the US Patent and Trademark Office of three sets of photographs. The photographs are acceptable if they are "developed on double weight photographic paper or be permanently mounted on bristol board." Additionally, the "photographs must be of sufficient quality so that all the details in the drawings are reproducible in the printed patent."

After reviewing the submitted photographs it is determined that the photographs fail to meet the standard set in 37 CFR 1.84(b)(1)(ii) in that the photographs are not on double weight photographic paper of permanently mounted to bristol board. Further, after reviewing the quality of the submitted photographs it is clear that the printing in a patent would not allow for all the details to be clearly shown. While figure 2 is somewhat clear both figures 1 and 3 fail to allow a clear understanding of what is being presented.

The petition is dismissed.

The application will be returned to the Office of Publication for submission of corrected photographs or the submission of drawings depicting the invention.

John J. Calvert
Supervisory Patent Examiner
Art Unit 3741 (703) 305-1025

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFRREY R. MCFADDEN
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

Papaer No. 15

COPY MAILED

JAN 2 0 2006

OFFICE OF PETITIONS

In re Patent No. 6,253,582	:	
Issue Date: July 3, 2001	:	
Application No. 09/256,981	:	DECISION GRANTING PETITION
Filed: February 24 1999	:	UNDER 37 CFR 1.378(c)
Attorney Docket No. H4050-002	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 6, 2005, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

The patent issued on July 3, 2001. The grace period for paying the first maintenance fee expired at midnight on July 3, 2005. Therefore, since this petition was filed 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).

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

The address of record differs from that of the petitioner. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The patent file is being forwarded to Files Repository.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

cc: JEFFREY R. MCFADDEN
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ONE ATLANTIC CENTER, SUITE 3500
ATLANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 21

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KNOBBE MARTENS OLSON & BEAR
620 NEWPORT CENTER DRIVE
SIXTH FLOOR
MEW PORT BEACH CA 92660-8016

In re Application of:
Klayman et al.
Application No.: 09/256,982
Filed: February 24, 1999
For: MULTI-CHANNEL AUDIO ENHANCEMENT SYSTEM FOR USE IN RECORDING PLAYBACK AND METHODS FOR PROVIDING SAME

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed December 19, 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**.

The application was held abandoned for failure to file a proper reply to the Office letter. It is noted that the Notice of Abandonment at this point errantly indicates that an Office letter was mailed on November 6, 2003 and instead should have referred to the mailing date of the final Office action of May 2, 2003. It was further noted that a request for continued examination was filed. However, the request was not considered as a proper reply under 37 CFR § 1.113(a), i.e., the transmittal letter was not signed. A Notice of Abandonment was mailed December 12, 2003.

A review of the application records reveals that Applicants filed along with the aforementioned transmittal letter, an amendment entitled "Amendment For Request For Continued Examination" which was properly executed.

37 CFR § 1.113 Final rejection or action states in part:

(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. [emphasis added]

37 CFR § 1.114 Request for continued examination states in part:

(a) If prosecution in an application is closed, an applicant may request continued

examination of the application by filing a submission and the fee set forth in §1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;
(2) Abandonment of the application; or
(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

Given Applicants timely responded within the timeframe set forth from the Board's decision with an amendment and a request for CPA (which will be treated as a request for continued examination), the application file is being forwarded to the Technology Center support staff for entry and processing of the request for a CPA and amendment. [emphasis added]

The date of mailing of the final Office action was May 2, 2003. Applicant timely submitted on the expiration date of the maximum extendable period of time, i.e., November 3, 2003 (November 2, 2003 being a Sunday) a response which included a transmittal letter, an amendment entitled "Amendment For Request For Continued Examination" and fees for the filing of the RCE, extension of time and excessive claims.

In accordance with 37 CFR §1.114, applicants have met the requirements by filing a submission (submission entitled "Amendment For Request For Continued Examination") and the fee set forth in 37 CFR §1.117(e). Regardless if a transmittal letter was not signed, the amendment which was signed clearly indicated a request for continued examination, which satisfies the requirement for "a submission" according to 37 CFR §1.114.

Accordingly, the Notice of Abandonment is hereby vacated and the Holding of Abandonment withdrawn.

For the reasons above, the petition is **GRANTED**.

The application will be forwarded to the Technology Center's Technical Support Staff for entry of the request for continued prosecution and entry of the amendment into the application. From there, the application will be forwarded to the examiner for processing in appropriate turn.

Mark Powell, Director
Technology Center 2600
Communications
(703) 305-4800

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 12/16/08

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/257064 Patent No.: 6975425B1

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

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: _____

SPE

2625
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

Mailed: JUN 11 2002

spg
Paper Number 20

In re application of
Raghunath Vitthal Chaudhari et al.
Serial No. 09/257,108
Filed: February 24, 1999
For: PROCESS FOR THE PREPARATION OF COPPER CHROMITE CATALYST

DECISION ON PETITION

This is a response to the REQUEST TO WITHDRAW NOTICE OF ABANDONMENT, filed by facsimile transmission on April 16, 2002. The request asks that the abandonment, as set forth in the Notice of Abandonment of April 9, 2002, for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance be withdrawn since the applicants did timely pay the issue fee on October 19, 2001. (A copy of the TRANSMITTAL OF PAYMENT OF ISSUE FEE (37 CFR 1.311) and the ISSUE FEE TRANSMITTAL are attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response, the TRANSMITTAL OF PAYMENT OF ISSUE FEE (37 CFR 1.311) and the ISSUE FEE TRANSMITTAL, were properly filed on October 19, 2001 as evidenced by the properly completed Certificate of Mailing under 37 CFR 1.8(a) on the copy of the paper entitled TRANSMITTAL OF PAYMENT OF ISSUE FEE (37 CFR 1.311) (see the copy attached to the instant petition). See MPEP 512. Accordingly, any holding of abandonment for failure to timely pay the issue is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the Publications Branch for processing of the TRANSMITTAL OF PAYMENT OF ISSUE FEE (37 CFR 1.311) and the ISSUE FEE TRANSMITTAL originally filed October 19, 2001.

The Petition is **GRANTED**.

Richard V. Fisher

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

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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MAR 23 2006
OFFICE OF PETITIONS

In re Application of
Jing-Shan Hu et al
Application No. 09/257,272
Filed: February 25, 1999
Attorney Docket No. 1488.1000009

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed March 15, 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 December 9, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1647 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

C:\Documents and Settings\FHicks\My Documents\470\Mar9\257272.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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in 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
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Paper No. 12

Joseph S. Tripoli, Patent Operations
Thomson Multimedia Licensing, Inc.
P. O. Box 5312
Princeton, NJ 08543-5312

COPY MAILED

JUL 2 2 2002

OFFICE OF PETITIONS

In re Application of :
Rolf Grzibek :
Application No. 09/257,638 :
Filed: February 25, 1999 :
Attorney Docket No. BTSPH098014 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed 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 October 22, 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 January 23, 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 future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Sherry Brinkley at (703) 305-9220.

The application file is being forwarded to Technology Center 2600, Art Unit 2614 for further processing.

Retta Williams

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

Sherry Brinkley

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

cc: Francis A. Davenport
Thomson Multimedia Licensing, Inc.
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. 6392692
Issue Date: May 21,2002
Application No. 09257720
Filed: February 25,1999
Attorney Docket No. 07-0142

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

This is a decision on the electronic petition, filed July 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 16,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6,392,692	2002-05-21	09/257,720	1999-02-25	07-0142

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 d Hunt/	Date (YYYY-MM-DD)	2010-07-15
Name	Jeffrey D Hunt	Registration Number	38189

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6366311
Issue Date: April 2,2002
Application No. 09257765
Filed: February 25,1999
Attorney Docket No. 07-0188

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

This is a decision on the electronic petition, filed June 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 16,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6,366,311	2002-04-02	09/257,765	1999-02-25	07-0188

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 d Hunt/	Date (YYYY-MM-DD)	2010-06-16
Name	Jeffrey D Hunt	Registration Number	38189

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

Privacy Act Statement

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

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

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

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

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

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

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

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Paper No. 23

DAVID A. KALOW, ESQ.
KALOW, SPRINGUT & BRESSLER, LLP
488 MADISON AVE.
19TH FLOOR
NEW YORK NY 10022

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NOV 0 5 2002

OFFICE OF PETITIONS

In re Application of	:
Goelet et al.	: DECISION GRANTING
Application No. 09/258,132	: PETITION
Filed: 26 February, 1999	:
Attorney Docket No. 04990.0007.U	:

This is a decision on the petition filed on 11 October, 2002, which is being treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition is **GRANTED**.

The application was held abandoned on 4 March, 2002, for failure to timely submit an Appeal Brief in Triplicate in response to the Notice of Appeal filed on 3 January, 2002, which set a two (2) month period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. The present petition precedes the mailing of a Notice of Abandonment.

Petitioners assert that a proper response was timely filed. In support of the petition, petitioners point to the Continued Prosecution Application (CPA), preliminary amendment, and five (5) month extension of time filed received in the USPTO on 7 August, 2002 as having been, in fact, timely filed on 5 August, 2002. In support, on 11 October, 2002, petitioners submitted a copy of a "Express Mail Post Office to Addressee" mailing label containing tracking number EV035772795US, the same number found on the CPA transmittal form, preliminary amendment, and five (5) month extension of time received on 7 August, 2002. Although the "date-in" on the Express Mail Label appears as "08/07/02", the Express Mail label also contains an official USPS postmark, dated 5 August, 2002. Additionally, a search of the USPTO's USPS Express Mail Database reveals that the above-identified Express Mail number was accepted by the USPS on 5 August, 2002.

In view of the above, it is concluded that the correct date of deposit for the CPA, preliminary amendment, and five (5) month extension of time is 5 August, 2002.[1]

The petition complies with the requirements set forth in 37 CFR 1.10(e).

Accordingly, the holding of abandonment is withdrawn. The petition fee $130.00 has been credited to counsel's deposit account, No. 11-0171.

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

Telephone inquiries concerning this matter may be directed to the undersigned at 703 308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]As 3 August, 2002, fell on a Saturday, the CPA, preliminary amendment, and five (5) month extension of time were timely filed on 5 August, 2002.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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David A. Kalow, Esq.
KALOW, SPRINGUT & BRESSLER, LLP
488 Madison Ave.
19th Floor
New York NY 10022

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OCT 2 6 2006
OFFICE OF PETITIONS

In re Application of	:	
GOELET et al.	:	
Application No. 09/258,132	:	DECISION ON PETITION
Filed: February 26, 1999	:	
Attorney Docket No. 04990.0007.U	:	

This is a decision on the petition under 37 CFR 1.183, filed September 22, 2006, to suspend 37 CFR 1.136(a)(1)(i) and enter a request for a one-month extension of time under 37 CFR 1.136(a), and a statement making of record the substance of a telephonic interview held with the examiner.

On July 18, 2006, a telephone interview was held between petitioner's attorney and the examiner. On July 20, 2006, the examiner issued an interview summary, which identified the claims discussed, indicated that no agreement had been reached with respect to the claims, and included comments by the examiner concerning the substance of the interview. Additionally, the interview summary set a non-extendable period of the longer of one month or thirty days from the interview date, or the mailing date of the interview summary form, whichever was later, to file a statement of the substance of the interview. Petitioner inadvertently did not take notice of this time period and did not file a statement of the substance of the interview within the one-month deadline. Thereafter, the examiner mailed a nonfinal Office action on September 5, 2006, which set a three-month shortened statutory period to reply.

On September 22, 2006, petitioner submitted the present petition (and fee), a request for a one-month extension of time (and fee), and a statement of the substance of a telephonic interview. **Initially, the Office notes that the filing of the present petition does not toll the three-month shortened statutory period for filing a timely reply to the nonfinal Office action of September 5, 2006.** The Office further notes that the failure to respond to the one-month time period indicated in the interview summary does not result in abandonment of the application. Therefore, a suspension of 37 CFR 1.136(a)(1)(i) and a request for a one-month extension of time are not necessary. The petition under 37 CFR 1.183 is dismissed as involving a moot issue.

The $400.00 petition fee and the $120.00 extension of time fee[1] will be refunded to Deposit Account.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] As the Office is refunding the one-month extension of time fee, petitioner must submit a response to the nonfinal Office action on or before December 5, 2006, unless petitioner obtains extensions of this time period.

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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KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Takadi et al.	:	
Application No. 09/258,442	:	ON PETITION
Filed: February 26, 1999	:	
For: COMMON BUFFER MEMORY	:	
CONTROL PANEL	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 10, 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 March 25, 2005. The Notice set a three (3) month period for reply. Extensions of time were available.

Applicant filed an Amendment in reply to the final Office action on August 25, 2005; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed October 5, 2005.

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of the Amendment(s) filed after the final Office action, mailed March 25, 2005.

The petition and RCE fees have been charged to Applicant's deposit account 50-1290, as authorized in the RCE Transmittal.

This application is being returned to Technology Center 2665 for processing of the RCE and in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 10

HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
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LOS ANGELES, CA 90071-2611

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OFFICE OF PETITIONS

In re Application of
Shneidman
Application No. 09/258,601
Filed: February 26, 1999
Attorney Docket No. 83315.0001

Decision on Petition

This a decision on the petition under 37 CFR 1.137(b), filed October 21, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed April 19, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 20, 2002. A Notice of Abandonment was mailed on November 21, 2002.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The file is now being forwarded to Technology Center Art Unit 2673 for entry and consideration of the amendment filed on October 21, 2004.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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JUL 27 2005
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 8

TIMOTHY J OYER
WOLF GREENFIELD AND SACKS
600 ATLANTIC AVENUE
BOSTON , MA 02210

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of
Anderson, *et al.*
Application No. 09/258,625
Filed: 02/26/1999
Attorney Docket No. T0428/7057TJ

: DECISION GRANTING STATUS
: UNDER 37 C.F.R. §1.47(a)

This is in response to the Petition Under 37 C.F.R. §1.47(a) filed on October 27, 1999.

The above-identified application was filed on February 26, 1999, naming Jere R. Anderson, Theodore A. Burnham, Sung, W. Cha, Robert H. Walat, Roland Y. Kim, James F. Stevenson, Nam P. Suh, and Matthew Pallaver as joint inventors. However, the declaration was not signed by co-inventor Cha. Accordingly, a notice to file missing parts (hereinafter "the notice") was mailed to the address of record on March 25, 1999.[1] Petitioner filed his response to the notice (which included a petition for a five month extension of time and payment of all outstanding fees) on October 27, 1999.

Petitioner has shown that the non-signing inventor 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 C.F.R. §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.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Scott Ledford at (703) 305-5593

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

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[1] The statutory filing fee and additional claim fees were missing as well.

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WASHINGTON, DC 20231
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Paper No. 12

MAIL

FEB 24 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SCHWEGMAN LUNDBERG WOESSNER & KLUTH
P O BOX 2938
MINNEAPOLIS MN 55402

In re Application of:
Thomas R. Glass
Application No. 09/258,743
Filed: February 26, 1999
For: ELECTROWETTING DISPLAY

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment of the above mentioned application filed January 8, 2002.

*The petition is **granted**.*

This application became abandoned for failure to timely reply to the Office action mailed February 15, 2001. A Notice of Abandonment was mailed on September 24, 2001.

Petitioner alleges to have timely filed a response to the Office action mailed February 15, 2001. To support this position, Petitioner has included with the petition a copy of a date stamped mailroom receipt, indicating PTO receipt of a response on May 21, 2001.

The original papers filed were not matched with the file and cannot be located. However, M.P.E.P. 503 states, "a postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file. The date stamped on the post card receipt is subsequent to the expiration of the three month shortened statutory period set forth in the Office action of February 15, 2001. However, the copy of the amendment submitted with the petition has affixed thereon a proper certificate of mailing in accordance with 37 CFR § 1.8(a) having a deposit date of May 15, 2001. Consequently the amendment is considered timely.

The Notice of Abandonment mailed on September 24, 2001 is hereby vacated and the holding of abandonment withdrawn.

The application will be forwarded to Technology Center's technical support staff for entry of the copy of the amendment. From there, the file will be forwarded to the examiner for further consideration in due course.

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

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.
09/258,750	02/26/1999	LISELOTTE BJERRE KNUDSEN	4790.520-US	4292

7590 07/09/2002

STEVE T ZELSON
NOVO NORDISK OF NORTH AMERICA INC
405 LEXINGTON AVE
SUITE 6400
NEW YORK, NY 101746401

EXAMINER
BORIN, MICHAEL L

ART UNIT	PAPER NUMBER
1631	14

DATE MAILED: 07/09/2002

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

In re Patent No. 6268343
Issue date: July 31,2001
Appl. No.: 09/258750
Filed:02/26/1999
For: Derivatives of GLP-1 analogs

DECISION ON PETITION UNDER *37 CFR 1.324*

This is a decision on the petition filed 06/02/2002 to correct inventorship under 37 CFR 1.324.

The petition is dismissed.

A petition to correct inventorship as provided by 37 CFR 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks signatures of all current inventors.

Michael Woodward
Supervisory Patent Examiner,
Art Unit 1631,
Technology Center 1600

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Certificate
APR 1 4 2004
of Correction

Paper No. 060104

In re Patent No. KNUDSEN ET AL.
Issue Date: July 31, 2001
Appl No.: 09/258,750
Filed: February 26, 1999
For: Derivatives of GLP-1 Analogs

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed April 15, 2003 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

M P Woodward
Supervisory Patent Examiner
Art Unit 1631
Technology Center 1600

STEVE T ZELSON
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Paper No. 5

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OFFICE OF PETITIONS
A/C PATENTS

KOLISCH HARTWELL DICKSON MCCORMACK
& HEUSER
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SUITE 200
PORTLAND, OR 97204

In re Application of
Carnes et al.
Application No. 09/258,833
Filed: February 26, 1999
Attorney Docket No. CRN-307
For: Vacuum-Assisted Pump

DECISION ACCORDING
STATUS UNDER
37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 27, 1999.

The petition is granted.

The above-identified application was filed on February 26, 1999, with an unexecuted declaration. Accordingly, on March 22, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring the insufficiency in filing fee, an executed declaration, and a surcharge for their late filing. In response, on September 27, 1999 (Certificate of Mailing Date of September 22, 1999), the instant petition, the filing fee, the petition fee, the required surcharge, a petition for a four month extension of time, and a declaration signed by only two of the three inventors was filed.

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 non-signing inventor alleges that the assignee sold pumps incorporating the subject matter of claim 3 more than one year prior to the filing of this 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 petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is now being forwarded to Technology Center 3700.

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

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

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 9-16-02 Paper No.: _____

TO ~~: Supervisor, Art Unit~~ 3746

SUBJECT : Certificate of Correction Request in Patent No.: 6409478

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 the scope or meaning of the claims be changed.

Inventor = Order
see Decision #5

B. Queen

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

THANK YOU FOR YOUR ASSISTANCE!

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

☐ YES ☑ NO ☑ Comments below

☑ Comments: Change requested requires a petition under 37CFR1.182. Please see MPEP 605.04 (f).

[signature] 3746

Supervisor Art Unit

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

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Paper No. 20

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

NOV 1 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Shunichi Tachibana
Application No. 09/258,894
Filed: March 1, 1999
For: **FACSIMILE APPARATUS OPERABLE AS A PRINTER**

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment filed October 12, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond in a timely manner and effective manner to the Office communication mailed November 18, 2003. A Notice of Abandonment was mailed September 8, 2004.

Petitioner alleges to have timely filed a response to said Office communication on February 23, 2004. In support thereof, Petitioner provided evidence in the way of a copy of the response filed February 23, 2004 and a date stamped post card receipt which itemizes the receipt of a response to Office action of November 18, 2003.

A review of the file records reveals that the original amendment filed on February 23, 2004 has been located and matched with the file. Therefore, it is concluded that the papers were timely filed in compliance with the requirements of 37 CFR 1.8(a)(1).

In view of the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Any inconvenience caused petitioner is regretted.

The petition is **GRANTED.**

The application file is being forwarded to the Technology Center's technical support staff for entry of the February 23, 2004 response. From there, the file will be forwarded to the examiner for further action in due course.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

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

In re Patent No. 7,253,913	:
Issued: August 7, 2007	: LETTER REGARDING PTA AND
Application No. 09/258,894	: CERTIFICATE OF CORRECTION
Filed: March 1, 1999	:
Atty. Dkt. No.: 35.C-8994-CO	:

This letter is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed September 20, 2007. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,253,913 on August 7, 2007. The patent issued with a patent term adjustment (PTA) of 516 days. Patentee indicates that PAIR "appears to indicate an incorrect number of days determined for the USPTO Delay and/or for the Applicant's Delay." Patentee does not set forth any specific error in the calculation of PTA.

The correct adjustment at the time of issuance of the patent is 475 days.

The patent is entitled to an adjustment of 615 days for Office delays (457 days in accordance with 37 CFR 1.702(a)(1) and 158 days in accordance with 37 CFR 1.702(a)(4).

The adjustment totaling 615 days is properly reduced 140 days for applicant's failure to engage in reasonable efforts to conclude prosecution. The reductions assessed are as follows:

- 7 days in accordance with 37 CFR 1.704(b) in connection with the response to non-final Office action submitted February 7, 2003;
- 34 days in accordance with 37 CFR 1.704(b) in connection with the RCE filed September 8, 2003;
- 5 days in accordance with 37 CFR 1.704(b) in connection with the response to non-final Office action submitted February 23, 2004; and
- 94 days in accordance with 37 CFR 1.704(b) in connection with the RCE filed March 27, 2006.

In view thereof, the patent is entitled to an adjustment of 475 days (615 days for Office delays less 140 days for applicant's delays).

As patentee is advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection to this matter.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 475 days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,253,913 B2
DATED	:	August 7, 2007
INVENTOR(S)	:	Tachibana

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 516 days

Delete the phrase "by 516 days" and insert – by 475 days--

Day : Tuesday
Date: 6/17/2008

PALM INTRANET

Time: 14:05:13

PTA Calculations for Application: 09/258894			
Application Filing Date:	03/01/1999	PTO Delay (PTO):	615
Issue Date of Patent:	08/07/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	99
Post-Issue Petitions:	0	Total PTA (days):	475
PTO Delay Adjustment:	-41		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	06/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		41	
88	08/07/2007	PATENT ISSUE DATE USED IN PTA CALCULATION	158		74
87	07/06/2007	EXPORT TO FINAL DATA CAPTURE			
86	07/05/2007	DISPATCH TO FDC			
85	07/06/2007	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
84	07/06/2007	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
83	07/06/2007	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
82	07/06/2007	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
81	06/28/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
80	12/19/2006	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
79	12/12/2006	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
78	12/11/2006	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
77	11/14/2006	FINISHED INITIAL DATA CAPTURE			
75	11/03/2006	APPLICATION IS CONSIDERED READY FOR ISSUE			
74	11/02/2006	ISSUE FEE PAYMENT VERIFIED			
73	11/02/2006	ISSUE FEE PAYMENT RECEIVED			
72	10/23/2006	EXPORT TO INITIAL DATA CAPTURE			
70	10/17/2006	MAIL NOTICE OF ALLOWANCE			
69	10/16/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
68	10/16/2006	ISSUE REVISION COMPLETED			

67	10/12/2006	NOTICE OF ALLOWABILITY			
66	10/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
65	09/11/2006	CASE DOCKETED TO EXAMINER IN GAU			
64	08/05/2006	DATE FORWARDED TO EXAMINER			
63	07/27/2006	RESPONSE AFTER NON-FINAL ACTION			
62	08/05/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
61	04/26/2006	REQUEST FOR REFUND			
60	04/28/2006	MAIL NON-FINAL REJECTION			
59	04/26/2006	NON-FINAL REJECTION			
58	03/27/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
57	03/22/2006	DATE FORWARDED TO EXAMINER			
56	01/13/2006	AMENDMENT AFTER FINAL REJECTION		21	51
55	01/13/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
54	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
53	02/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	02/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		32	56
51	09/23/2005	MAIL FINAL REJECTION (PTOL - 326)	457		48
50	09/22/2005	FINAL REJECTION			
49	07/21/2005	DATE FORWARDED TO EXAMINER			
48	02/23/2004	RESPONSE AFTER NON-FINAL ACTION		5	41
47	12/06/2004	MAIL NOTICE OF RESCINDED ABANDONMENT			
46	12/05/2004	NOTICE OF RESCINDED ABANDONMENT IN TCS			
45	11/10/2004	MAIL-PETITION TO REVIVE APPLICATION - GRANTED			
44	10/12/2004	PETITION ENTERED			
43	09/08/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
42	09/07/2004	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
41	11/18/2003	MAIL NON-FINAL REJECTION			
40	11/17/2003	NON-FINAL REJECTION			
39	09/25/2003	DATE FORWARDED TO EXAMINER			
38	09/08/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)		34	30
		DISPOSAL FOR A RCE/CPA/129 (EXPRESS			

37	09/25/2003	ABANDONMENT IF CPA)			
36	09/08/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	09/08/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	08/28/2003	MAIL ADVISORY ACTION (PTOL - 303)			
33	08/27/2003	ADVISORY ACTION (PTOL-303)			
32	08/13/2003	DATE FORWARDED TO EXAMINER			
31	08/08/2003	AMENDMENT AFTER FINAL REJECTION			
30	05/05/2003	MAIL FINAL REJECTION (PTOL - 326)			
29	05/04/2003	FINAL REJECTION			
28	05/04/2003	CASE DOCKETED TO EXAMINER IN GAU			
27	02/11/2003	DATE FORWARDED TO EXAMINER			
26	02/07/2003	RESPONSE AFTER NON-FINAL ACTION		7	25
25	10/31/2002	MAIL NON-FINAL REJECTION			
24	10/30/2002	NON-FINAL REJECTION			
23	09/05/2002	DATE FORWARDED TO EXAMINER			
22	08/30/2002	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
21	09/05/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
20	08/30/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	08/30/2002	WORKFLOW - REQUEST FOR CPA - BEGIN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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OFFICE OF PETITIONS

In re Application of
Miller et al.
U.S. Patent No.: 7,074,888
Issue Date: July 11, 2006
Application No. 09/258,947
Filing Date: March 1, 1999
Attorney Docket No.: 011.00117
For: MIMOTOPES AND ANTI-MIMOTOPES OF HUMAN PLATELET GLYCOPROTEIN IB/IX

: Decision on Petition for Patent Term Extension

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition Under 37 CFR 1.181," received on May 25, 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 June 25, 2003, the date that the Notice of Appeal was filed and ending on February 28, 2005, 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 June 25, 2003. [1] On February 28, 2005, the Board of Patent Appeals and Interferences (BPAI) vacated the rejections and 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,

[1] Under 37 CFR 1.8, except in certain situations, correspondence required to be filed in the Office within a set period of time will be considered as being timely filed if the procedure described in the rule is followed. 37 CFR 1.8, further, states that the actual date of receipt will be used for all other purposes.

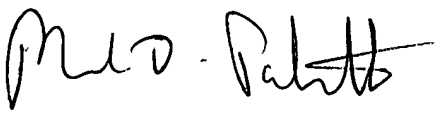
and issuance of the application as a patent was delayed due to appellate review resulting in a remand by a panel of the BPAI to the Examiner, the patent to issue from the application is entitled to an extension of the patent term. [2] The period of delay in the above-identified application is the period beginning on June 25, 2003, the date that the Notice of Appeal was filed and ending on February 28, 2005, 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 March 17, 1998. Accordingly, the period of extension is not required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the first period of extension is **615-days**, the period from June 25, 2003 to February 28, 2005, including the beginning and end dates.

The Office will 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. The certificate of correction will indicate that the patent term extension or adjustment under 35 U.S.C. 154(b) is **615-days**.

After mailing of this decision, the application will be forwarded to Certificates of Correction Branch for issuance of a Certificate of Correction.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,074,888

DATED : July 11, 2006

INVENTOR(S) : Miller 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 title page,
[*] delete "0" and insert --615--.

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#28

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DECISION
ON PETITION

John A. Thomas
Glast, Phillips & Murray
13355 Noel Road, L.B. 48
Dallas TX 75240-6657

In re Application of:
Gary L. Rutledge
Application No. 09/259,000
Filed: February 26, 1999
For: **SINGLE CAMERA VIDEO INSPECTION SYSTEM FOR WATER WELLS AND BORE HOLES**

This is a response to the Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed October 6, 2004 and resubmitted on August 25, 2005. No fee is required.

This application became abandoned for failure to timely file a response to the Board of Patent Appeals and Interferences' decision mailed May 14, 2004. Said decision reversed the examiner's rejection of claims 1-4, 9, 18, 19, 23-28 and 33, sustained the examiner's rejection of claims 5-8, 29-32 and set forth a new grounds of rejection with respect to claim 1-9. A Notice of Abandonment was mailed September 22, 2004.

To support this position, Petitioner has included within the combined petitions, a copy of the response, canceling all rejected claims, a copy of a certificate of mailing signed by the petitioner and a copy of a facsimile transmission report which reflects that a 7 page submission was faxed to a USPTO facsimile number on June 10, 2004.

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's statement that "On June 10, 2004 the applicant transmitted by facsimile an 'Amendment After Decision of Board of Patent Appeals'" is taken as petitioner's personal statement that the correspondence was mailed on or transmitted on the date indicated. Therefore, petitioner has satisfied the requirements of 37 C.F.R. §1.8(a) as set forth above.

Accordingly, the petition is **GRANTED** and holding of abandonment is hereby withdrawn.

It is noted that the revocation of power of attorney filed July 18, 2001 included a copy of the original declaration which include the original powers of attorney for the application. Moreover, the revocation did not include a new power of attorney.

Therefore, the application will be forwarded to the Technology Center's technical support staff for correcting the original powers of attorney (i.e., revoking the original attorneys of record) and for entry of the response submitted with the petition. From there, given that applicant's response was the cancellation of all rejected claims, the application will be forwarded to the examiner to prepare the application for allowance.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of	:	
David et al.	:	DECISION
Application No.: 09/259,093	:	
Filing Date: September 27, 2002	:	ON PETITION UNDER
Docket No.: PPC-850	:	
For: Disposable Articles Having	:	37 CFR 1.137(b)
A Failure Detection System	:	

This is a decision on Petition Under 37 CFR 1.137(b), filed on August 2, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed February 22, 2005, which set a shortened statutory period for reply of three (3) months. The application went abandoned at midnight on August 22, 2005. A Notice of Abandonment was mailed on September 29, 2005.

Petitioner has met the requirements for revival under §1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee and made the statement that "the entire delay in filing the required reply from the due date until the filing of this petition was unintentional." This is being construed as a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Petitioner must notify the Patent and Trademark Office if such an interpretation of the statement in the petition is not correct. Since this utility application was filed after June 8, 1995, no terminal disclaimer is required. Accordingly, the petition is granted under §1.137(b).

This application is being referred to Technology Center 3761 for continued processing.

George M. Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions
Telephone: 571-272-3283
Facsimile: 571-273-0459

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SEP 23 2008

Lynn Linkowski
Verenium Corporation
Intellectual Property Department

In re Patent No. 6,110,719 Keith A. Kretz
Issue Date: August 29, 2000
Appl No.: 09/259,214
Filed: March 1, 1999
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed May 30, 2008 , to correct inventorship under 37 CFR 1.324. The petition has complied with all the requirements under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DATE: Septembre 18, 2008
TO: Certificates of Correction Branch
FROM: Nashaat T. Nashed
Supervisory Patent Examiner
Art Unit 1652, Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. US 6,110,719 as specified on the attached Certificate.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. US 7,078,035
Patented: July 18, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Jay M. Short.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

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LEGAL DEPARTMENT
1201 WINTERSON ROAD
LINTHICUM, MD 21090

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In re Application of	:
Drew D. Perkins et al	: DECISION DISMISSING
Application No. 09/259,263	: PETITION UNDER 37 CFR
Filed: March 1, 1999	: 1.137(b)
Attorney Docket No. 300	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue fee (and submit corrected formal drawings) on or before August 30, 2004, as required by the Notices mailed May 28, 2004. Accordingly, the date of abandonment of this application is August 31, 2004. A Notice of Abandonment was mailed on October 8, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR

1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1) above.

While authorization for the issue fee payment has been received, there is no indication that corrected drawings as required by the Notice of Allowability of May 28, 2004 have been received. Therefore, before revival of the application can be effected, drawings as required by the Notice of May 28, 2004 must be submitted.

As authorized, the $1,370 petition fee and the $1,370 issue fee will be charged to petitioner's deposit account.

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: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CIENA CORPORATION
LEGAL DEPARTMENT
1201 WINTERSON ROAD
LINTHICUM, MD 21090

COPY MAILED

MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Drew D. Perkins et al	:	
Application No. 09/259,263	:	DECISION GRANTING PETITION
Filed: March 1, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 300	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee of $1,370 received October 27, 2004 and corrected drawings received on February 10, 2005; (2) the petition fee of $1,370; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee and drawings are accepted as having been unintentionally delayed.

The drawings filed on February 10, 2005, have been approved by the Official Draftsperson. *Note* attached Form PTO-892.

The "Change of Attorneys' Address" received February 10, 2005 will not be entered since the record fails to show that the party signing the change of address was ever appointed as an attorney of record. Therefore, until the appropriate power of attorney documentation is received, all future correspondence will be mailed to the above-noted address of record. A courtesy copy of this decision is being mailed to petitioner.

As the petition to revive fee of $1,370 was previously submitted on October 27, 2004, the second submission of a petition to revive fee is unnecessary. Accordingly, the $1,500 petition to revive fee received on February 10, 2005 will be credited to Deposit Account No. 02-2448 in due course.

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

This matter is being referred to Publishing Division for processing into a patent.

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

cc:

Birch Stewart Kolasch & Birch LLP
P O Box 747
Falls Church, VA 22040-0747

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review Form PTO-948

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

MICHAEL J HOUSE
16181 SOFTWATER LAKE DR
LINDEN GENESEE MI 48451

COPY MAILED

NOV 2 1 2002

OFFICE OF PETITIONS

In re Application of
Michael J. House
Application No. 09/259,593
Filed: March 1, 1999
Title: MULTI ALL FUEL PROCESSOR SYSTEM AND METHOD OF PRETREATMENT FOR ALL COMBUSTION DEVICES

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(a)

This is a decision on the petition filed on September 16, 2002, pursuant to 37 C.F.R. §1.137(a)[1], 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 September 24, 1999, 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 December 26, 1999. A Notice of Abandonment was mailed on April 26, 2000.

The instant petition lacks items (1) and (3) above.

---

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

(1) the required reply (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;
(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 (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR §1.137(a).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard

35 USC §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." (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."[2]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[3] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[4] Nonawareness of a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[5]

Statute and Portion of the MPEP relevant to the abandonment of this application

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

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2 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."))

3 Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

4 See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

5 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).

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.
(Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

37 CFR §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]

Application of the standard to the current facts and circumstances

With the instant petition, Petitioner has filed a statement of facts which presents the following argument:

1. It took a great deal of time to review the sixteen references cited in the non-final Office Action mailed September 24, 1999.

Regarding the first requirement above, petitioner has failed to supply a required reply.

Regarding the third requirement above, petitioner seems to have asserted that after three years, he still has not had enough time to prepare a response. Unfortunately, this argument is not persuasive, as 35 U.S.C. § 133 sets a statutory requirement which mandates the furtherance of the prosecution of an application prior to the expiration of the period for response.

Therefore, it is determined that the petitioner cannot establish that the entire delay in filing the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable which is required in order for relief to be granted under 37 CFR 1.137(a).

Petitioner's failure to submit the required reply based on a time constraint of three years has not been deemed to rise to the level of "unavoidable".

Consequently, the petition 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 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Alternate venue

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR §1.137(b). A grantable petition pursuant to 37 CFR §1.137(b) must be accompanied by the required reply, the required petition fee, and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

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 cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR §1.137(b), was unintentional. 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).

In light of the recent events, the USPTO **strongly** prefers that the reply to this letter be submitted by facsimile[6]. However, if applicant cannot submit the reply to this letter by facsimile (or hand-delivery[7]), the reply may be mailed[8].

Notice regarding fees:

Historically the fees that the USPTO charges for doing business increase at the beginning of each fiscal year (October 1). However, no final determination has been made on fees for FY03 at this point, and fiscal year 2003 was started with the same fee structure as last fiscal year.
Please be advised that applicants should monitor the USPTO website for future updates whenever any necessary money is sent.

For more information, see www.USPTO.gov, click on "News and Notices", and under the "Patents" column you will find the above information[9].

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

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6 (703) 308-6916, Attn: Office of Petitions.
7 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.
8 Commissioner for Patents, Box DAC, Washington, DC 20231.
9 The direct URL is: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/feenotice.htm

Telephone inquiries should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

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

Encl. PTO Form PTO/SB/64
Summary of the Privacy Act of 1974

UNITED STATES 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

MICHAEL J HOUSE
16181 SOFTWATER LAKE DR
LINDEN GENESEE MI 48451

COPY MAILED

SEP 16 2003

OFFICE OF PETITIONS

In re Application of
Michael J. House
Application No. 09/259,593
Filed: March 1, 1999
Title: MULTI ALL FUEL PROCESSOR SYSTEM AND METHOD OF PRETREATMENT FOR ALL COMBUSTION DEVICES

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(a)

This is a decision on the petition filed on August 19, 2003, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 24, 1999, 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 December 26, 1999. A Notice of Abandonment was mailed on April 26, 2000.

On September 16, 2002, petitioner filed a petition under 37 C.F.R. §1.137(a), which was dismissed via a decision mailed on November 21, 2002 for failure to include the required reply and for failure to establish that the entire delay was unavoidable.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition under 37 C.F.R. §1.137(b), petitioner submitted both the petition fee and the correct statement of unintentional delay.

The instant petition is not grantable because requirement (1) again has not been satisfied.

Petitioner has not submited the required reply. The required reply consists of an amendment or a response to the non-final rejection of September 24, 1999. **No petition can be granted unless petitioner submits this requirement**. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[2]. In order for the application to be revived, petitioner must submit either a continuing application under 37 C.F.R. §1.53(b); a request for continuing examination under 37 C.F.R. §1.114, if applicable; a 37 C.F.R. §1.129(a) submission, if applicable); an amendment, or; a request for reconsideration which addresses in detail the Examiner's non-final rejection. A general assertion that the references cited against him do not apply cannot suffice.

Therefore, this petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

On renewed petition, petitioner must submit the required reply.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

The reply to this letter may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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

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

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2 See M.P.E.P. 711.03(c).

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

4 Office of Petitions, 2201 South Clark Place, Crystal Plaza 4, Suite 3C23, Arlington, VA 22202.

5 (703) 308-6916 or (703) 305-4257, Attn: 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. 12

MICHAEL J HOUSE
16181 SOFTWATER LAKE DR
LINDEN GENESEE MI 48451

COPY MAILED

NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of Michael J. House Application No. 09/259,593 Filed: March 1, 1999 Title: MULTI ALL FUEL PROCESSOR SYSTEM AND METHOD OF PRETREATMENT FOR ALL COMBUSTION DEVICES	:	DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the second renewed petition filed on November 17, 2003[1], pursuant to 37 C.F.R. §1.137(b)[2], 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 September 24, 1999, 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 December 26, 1999. A Notice of Abandonment was mailed on April 26, 2000.

On September 16, 2002, petitioner filed a petition under 37 C.F.R. §1.137(a), which was dismissed via a decision mailed on November 21, 2002 for failure to include the required reply and for failure to establish that the entire delay was unavoidable.

---

1 As November 16, 2003 was a Sunday, this petition was timely filed.

2 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.

On August 19, 2003, petitioner filed a renewed petition under 37 C.F.R. §1.137(b), which was dismissed via the mailing of a decision on September 16, 2003, for failure to submit the required reply.
With the second renewed petition, petitioner has submitted a request for reconsideration.

As such, the petition is **GRANTED**.

After this decision is mailed, the application will be forwarded to Technology Center 3700 for further processing.

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

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

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

COPY MAILED

MAR 1 9 2002

OFFICE OF PETITIONS

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

In re Application of :
Labadie et al. :
Application No. 09/259,619 :
Filed: March 1, 1999 :
Attorney Docket No. :
210655.90018 :

DECISION ON PETITION

This is a decision on the Petition to revive the above-identified application under 37 CFR 1.137(b), filed February 11, 2002 (Certificate of Mailing dated February 8, 2002).

This Petition is hereby **dismissed as moot**.

A final Office action was mailed August 8, 2001, which set a shortened statutory period for reply of three (3) months. That period was extendable up to three (3) months. Petitioner filed a request for a three (3) month extension of time and an Amendment on February 11, 2002, however, the extension of time and Amendment included a Certificate of Mailing dated February 8, 2002.

Under 37 CFR 1.8, this Office will consider correspondence as being timely filed as follows:

> "correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered 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 the 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 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 a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

Petitioner included a Certificate of Mailing dated February 8, 2002 on the Amendment and extension of time request properly addressed to this Office. Accordingly, the above-identified application was never abandoned.

With the instant petition, Petitioner paid the petition fee, submitted a Request for Continued Examination ("RCE"), and fee, and filed a submission in the form of an Amendment. However, the Amendment was timely filed prior to the application becoming abandoned, rendering the petition, RCE and Fee unnecessary.

Accordingly, the petition is dismissed as moot. The petition and RCE fees have been refunded to Petitioner's deposit account, number 17-0055, as authorized in the Fee Transmittal.

This application is being returned to Technology Center AU 2176 for processing of the Amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
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.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

JUN 1 4 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Ronnie M. Harrison :
Application No. 09/259,625 :
Filed: February 26, 1999 :
Attorney Docket No. 303.503US1 :

ON PETITION

This is a decision on the petition, filed by facsimile transmission on March 9, 2001 and supplemented on June 12, 2001, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The application is being forwarded to Technology Center 2800 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHEEF & STONE, L.L.P.
5956 SHERRY LANE
SUITE 1400
DALLAS TX 75225

COPY MAILED

AUG 2 9 2008

In re Application of	:	
KETONEN, Veli-Pekka	:	
Application No. 09/259,845	:	DECISION ON PETITION
Filed: March 01, 1999	:	TO WITHDRAW
Attorney Docket No. **NC10567**	:	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 July 28, 2008.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed.

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, consent of client, do 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **HARRINGTON & SMITH LLP**
4 RESEARCH DRIVE
SHELTON CT 06484

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 26, 2005

TO SPE OF : ART UNIT 2822

09/259870

SUBJECT : Request for Certificate of Correction on Patent No.: 6,835,638

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 – RM 9A22

Palm location 7580 - Tel. No. 308-9390

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

Please see the IFW Code COCIN, amdt B – title change, and the References Cited.
Please return to PUBSCOFC, STACY POWELL, ASAP.

Thank You For Your Assistance

_____
Certificates of Correction Branch

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

Note your decision on the appropriate box.

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

Comments:

_____

_____

_____

_____

_____

SPE — Art Unit 2822

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

Roy L. Anderson
18881 Von Karman Avenue
Suite 1400
Irvine, CA 92612

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JUL 30 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Chris W. Mahne, et al.
Application No. 09/259,991
Filed: March 1, 1999
Attorney Docket No. JSF 35.046

ON PETITION

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 in a timely manner to the non-final Office action mailed December 20, 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 March 21, 2001.

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 $445.00 extension of time submitted with the petition on July 2, 2001 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to the petitioner.

Telephone inquiries concerning this decision should be directed to Retta Williams at (703) 306-5594 or in my absence, Marianne Morgan at (703) 306-3475.

The application file is being forwarded to Technology Center 2100 for further processing.

Retta Williams

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

Marianne Morgan

Marianne Morgan
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

COPY MAILED

FEB 25 2004

OFFICE OF PETITIONS

In re Application of
Tsutsui et al.
Application No. 09/260,257
Filed: March 2, 1999
Attorney Docket No. FUJI-15.641

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 10, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed July 31, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on November 1, 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 $840.00 extension of time fee submitted with the petition on February 10, 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 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

DAC

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APR 17 2001
OFFICE OF PETITIONS

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APR 18 2001
TC 2800 MAIL ROOM

Paper No. 14

IONEL TITARU
4400 E. BROADWAY
SUITE 414
TUCSON, AZ 85711

COPY MAILED

APR 0 6 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Ionel Jitaru
Application No. 09/260,478
Filed: March 1, 1999
Attorney Docket No. P7675.10005

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 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 11, 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 12, 2000.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on March 12, 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 Irvin Dingle at (703) 306-5684.

RECEIVED
APR 19 2001
TECHNOLOGY CENTER 2800

The application file is being forwarded to Technology Center 2800.

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

cc:

Garth Janke
Birdwell, Janke & Durando
900 SW Fifth Avenue, Suite 1925
Portland, Oregon 97204

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10-29-09

Paper No.: _____

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/260629 Patent No.: 6479626

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)
Randolph Square – 9D10-A
Palm Location 7580

Emma Young
Certificates of Correction Branch
703-756-1814 _____

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: _____

Carla Tsay
SPE

1654
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091209

DATE : December 09, 2009

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 6,479,626 (09/260629)

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:

Cecilia Tsang SPE, Art Unit 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6372176
Issue Date: April 16,2002
Application No. 09260851
Filed: March 1,1999
Attorney Docket No. KIEFEL-001XX

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

This is a decision on the electronic petition, filed June 5,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,372,176	2002-04-16	09/260,851	1999-03-01	KIEFEL001XX

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin J. Carroll/	Date (YYYY-MM-DD)	2007-06-05
Name	Kevin J. Carroll	Registration Number	36384

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6751695
Issue Date: June 15,2004
Application No. 09261005
Filed: March 2,1999
Attorney Docket No. PHA 51039A

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

This is a decision on the electronic petition, filed December 17,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6751695	2004-06-15	09261005	1999-03-02	A 051039US

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Aaron M Waxler/	Date (YYYY-MM-DD)	2008-12-16
Name	Aaron Waxler	Registration Number	48027

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6122012
Issue Date: September 19,2000
Application No. 09261193
Filed: March 3,1999
Attorney Docket No. 988/1

:
: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)
6,122,012	2000-09-19	09/261,193	1999-03-03	988/1 (P22949)

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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

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

Paper No. 10

PILLSBURY MADISON AND SUTRO
1100 NEW YORK AVENUE NW
NINTH FLOOR, EAST TOWER
WASHINGTON, DC 20005-3918

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JAN 0 4 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
James M. Hair III, et al :
Application No. 09/261,221 : ON PETITION
Filed: March 3, 1999 :
Attorney Docket No. PM-241416 :

This is a decision on the petition under 37 CFR 1.313(b)(5), filed December 8, 2000, which is being treated as a petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is **GRANTED**.

The above-identified application is hereby withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

Petitioner is advised that the issue fee paid on November 27, 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 December 8, 2000.

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

The application is being forwarded to Technology Center AU 2873 for processing of the CPA.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 13

Karl Vernon Lee Barnett
11 Ascension Drive
Apt. K
Asheville, NC 28806

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AUG 2 4 2005

OFFICE OF PETITIONS

In re Patent of
Barnett
Patent No. 6,170,281
Issue Date: January 9, 2001
Application No. 09/261,310
Filing Date: March 2, 1999

Decision on Petition

This is a decision on the petition filed August 12, 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 January 9, 2001. The last day of the grace period for paying the 3.5 year maintenance fee was January 9, 2005. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

This file is being forwarded to Files Repository.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6153943
Issue Date: November 28,2000
Application No. 09261341
Filed: March 3,1999
Attorney Docket No. 2024136-0001

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

This is a decision on the electronic petition, filed December 30,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 30,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6153943	2000-11-28	09261341	1999-03-03	

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

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	/Alfred F. Mistr, Jr./	Date (YYYY-MM-DD)	2008-12-30
Name	Alfred F. Mistr, Jr.		

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

Application/Control Number:09/262,123
Art Unit:2132

In re Application of
David C. Challener et al.
Serial NO. 09/262,123
Filed: March 3, 1999

DECISION ON PETITION

For: DATA PROCESSING SYSTEM AND METHOD FOR MAINTAINING SECURE USER PRIVATE KEYS IN NON-SECURE STORAGE

This is a decision on the petition for correction of inventorship. The petition filed on August 29, 2001 is **GRANTED.**

The petition filed on August 28, 2001 requests correction of inventorship under 37 CFR 1.48(b) to add Scott Thomas Elliott.
The new inventorship shall be: David Carroll Challener; Daryl Carvis Cromer; Mark Charles Davis; Howard Jeffery Locker; Andy Lloyd Trotter; James Peter Ward and Scott Thomas Elliott.

ALBERT DECADY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Albert De Cady
SPE, Art Unit 2132

Andrew J. Dillon
Bracewell & Patterson, L.L.P
Suite 350, Lakewood on the park
7600B North Capital of Texas Highway
Austin, Texas 78731

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 15

MAILED

SEP 1 0 2004

Technology Center 2100

Andrew J. Dillon
8911 North Capital of Texas Hwy
Suite 2110
Austin, TX 78759

In re Application of: Challener et al.	)	
Application No. 09/262,123	)	
Attorney Docket No. RP9-98-089	)	**DECISION ON PETITION TO**
Filed: March 3, 1999	)	**WITHDRAW HOLDING OF**
For: DATA PROCESSING SYSTEM AND	)	**ABANDONMENT UNDER 37 CFR**
METHOD FOR MAINTAINING SECURE	)	**§1.181**
USER PRIVATE KEYS IN NON-SECURE	)	
STORAGE	)	

This is a decision on the petition, filed originally on May 12, 2003 (as evidenced by a post card receipt stamp) and subsequently refiled on August 18, 2004 requesting the Withdrawal of the Holding of Abandonment of the above-identified application. This application was held abandoned for failure to respond to the non-final Office action mailed October 16, 2002 (Paper No. 10). A Notice of Abandonment was mailed on April 22, 2003 (Paper No. 12).

A review of the application file shows the Office action mailed October 16, 2002 was, in fact, returned to the USPTO. There is no evidence the Office followed the procedures in MPEP §707.13 regarding returned Office actions. In addition, the practitioner has provided statements indicating the Office was on notice to resend the correspondence but did not do so. While the practitioner's statements are construed to mean that the Office was not promptly notified of a change of address in compliance with the guidelines set forth in MPEP § 601.03, the fact remains that the Office did not "use every reasonable means to ascertain the correct address and forward the action again" (see MPEP §707.13).

The petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center support staff. The non-final Office action will be remailed with the three-month shortened statutory period for reply restarted to run from the date of the remailing.

Josie A. Ballato
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

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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SCHWABE WILLIAMSON & WYATT
PACWEST CENTER, SUITES 1600-1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

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JUL 0 8 2005

OFFICE OF PETITIONS

In re Application of
Brian D. Possley
Application No. 09/262,458
Filed: March 4, 1999
Attorney Docket No. 42390.P6643

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 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 April 7, 2004, 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 8, 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 a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 7, 2004 is accepted as having been unintentionally delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. SeeIn re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the petition on June 3, 2005 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 (571) 272-3220.

This matter is being referred to Technology Center AU 2818.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20090929

DATE : 0928/09

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 09262458
Patent No.: 6974978

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)

Randolph Square
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

NN ☑ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

/Davienne Monbleau/
SPE Art Unit 2893

SPE **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
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
HIROFUMI HONDA	:	
Application No. 09/262,595	:	LETTER
Filed: 03/05/1999	:	
Attorney Docket No. P7156-9007	:	

This is in response the request for status mailed on March 9, 2007. The application was recently forwarded to the Office of Petitions. The undersigned immediately reviewed the matter upon receipt of the file.

A review of the record indicates that a decision denying the petition to withdraw the holding of abandonment was mailed on June 8, 2005, to the former correspondence address.[1] A copy of the decision is enclosed for petitioner's convenience.

The period for filing a request for reconsideration of the decision will be **restarted**. Accordingly, any request for reconsideration of the decision must be submitted within **TWO (2) MONTHS** from the mail date of this letter. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may file a petition under 37 CFR 1.137(b) to revive the application.

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

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

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

[1] The Office received a Notification of Change of Name and Address on January 16, 2003.

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

By EFS Web: Attn: Office of Petitions

Telephone inquiries related to this letter may be directed to the undersigned at (571) 272-3211.

Christina Tartera 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

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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DEC 2 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Hirofumi Honda	:	
Application No. 09/262,595	:	ON PETITION
Filed: March 5, 1999	:	
Attorney Docket No. P7156-9007	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 12, 2007, 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.

The application became abandoned for failure s to timely pay the issue and publication fees on or before March 4, 2002 as required by the Notice of Allowance and Fee(s) Due, mailed December 3, 2001, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 5, 2002. The Notice of Abandonment was mailed May 2, 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). 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 Director may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

The file record shows that 5 years elapsed between the date of abandonment and the filing of the instant petition. A Notice of Abandonment was mailed to Nikaido Marmelstein Murray & Oram, the attorneys of record at the time of abandonment on May 2, 2002. Due to the extended delay in filing the petition to revive, further information as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed is required, along with information as to how such delay was "unintentional." Petitioner must submit:

> (A) further information as to when the applicant (or applicant's representative) first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). See MPEP 711.03(c).

Please provide further information in regards to the above within TWO (2) MONTHS from the mail date of this decision.

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 Terri Williams at (571) 272-2991.

Liana Walsh
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

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

COPY MAILED

AUG 0 4 2008

In re Application of	:	
Hirofumi Honda	:	
Application No. 09/262,595	:	ON PETITION
Filed: March 5, 1999	:	
Attorney Docket No. 107156-09007	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2008, 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.

The application became abandoned for failure s to timely pay the issue and publication fees on or before March 4, 2002 as required by the Notice of Allowance and Fee(s) Due, mailed December 3, 2001, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 5, 2002. The Notice of Abandonment was mailed May 2, 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). 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 Director may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (3).

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for period (2).

As to Period (2):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here in view of the inordinate delay in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

Where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated clear that any protracted delay could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival. In particular, petitioner must submit:

> (A) further information as to when the applicant (or applicant's representative) first became aware of the abandonment of the application; and
>
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). See MPEP 711.03(c).

This information was first requested in the petition decision mailed on or about December 25, 2007, but was not provided in the renewed petition filed January 15, 2008. In the Petition to Withdraw the Holding of Abandonment filed April 25, 2005, petitioner indicated that the abandonment of this application was discovered on April 19, 2005 through a telephone inquiry with Examiner Yenke. However, petitioner has not explained the circumstances of this discovery such as the reason for the inquiry, the matters discussed, or why such a telephone inquiry to the

examiner or other appropriate official was not attempted since the previous amendment was filed on November 13, 2001.

Furthermore, petitioner asserts in the renewed petition that the previous written status inquires demonstrated diligence. However, the evidence on record does not support this assertion. MPEP §203.08 II states in pertinent part:
Amended applications are expected to be taken up by the examiner and an action completed within two months of the date the examiner receives the application. Accordingly, a status inquiry is not in order after reply by the attorney until 5 or 6 months have elapsed with no response from the Office. However, in the event that a six month period has elapsed, and no response from the Office is received, applicant should inquire as to the status of the application to avoid potential abandonment.

Rather than inquire promptly after a six month period from the November 13, 2001 filing of an amendment, petitioner waited 14 months to file a status request on January 16, 2003. Petitioner then waited an additional 16 months to file another status request on May 17, 2004. The record is not clear as to why a telephone status inquiry to the examiner or other appropriate official was not attempted in this 30 month period. The evidence of record does not demonstrate that such delayed status inquiries represent diligence.

Please provide further information in regards to the above within TWO (2) MONTHS from the mail date of this decision.

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 Terri Williams at (571) 272-2991.

Chris Bottorff

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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DEC 05 2008

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

Paper No. 19

In re Application of	:	
Hirofumi Honda	:	
Application No. 09/262,595	:	DECISION ON PETITION
Filed: March 5, 1999	:	
Attorney Docket No. 107156-09007	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 2008, 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.

This application became abandoned for failure to timely pay the issue fee and to submit corrected formal drawings on or before March 4, 2002, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed December 3, 2001. Accordingly, the date of abandonment of this application is March 5, 2002. The Notice of Abandonment was mailed May 2, 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). 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 Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The Notice of Allowability required that corrected drawings be filed along with payment of the issue fee. The drawings have not been 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 Terri Williams at (571) 272-2991

Chris Bottorff
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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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Hirofumi Honda	:	
Application No. 09/262,595	:	DECISION ON PETITION
Filed: March 5, 1999	:	
Attorney Docket No. 107156-09007	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and to submit corrected formal drawings on or before March 4, 2002, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed December 3, 2001. Accordingly, the date of abandonment of this application is March 5, 2002. The Notice of Abandonment was mailed May 2, 2002.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and corrected formal drawings , (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#8

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUN 8 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

NIKAIDO MARMELSTEIN MURRAY & ORAM
METROPOLITAN SQUARE
655 FIFTEENTH STREET NW
SUITE 330-G STREET LOBBY
WASHINGTON DC 20005-5701

In re Application of
Hirofumi Honda
Application No. 09/262,595
Filed: March 5, 1999
For: **METHOD FOR INTERPOLATING A VIDEO SIGNAL**

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment filed April 25, 2005, pursuant to 37 CFR § 1.181 (a). No fee is required.

The application was held to abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed December 3, 2001. A Notice of Abandonment was mailed May 2, 2002.

Petitioner states that applicant's attorneys relocated to a new address on March 6, 2002 and waited over a year to file a change of address via e-mail, expecting that the United States Postal Service would forward the mail to the new address. Petitioner provides as support a Notice of Customer Number Record Change, an e-mail from the Office indicating that there were questions with respect to some "questionable" applications and that a spreadsheet was attached to the e-mail requiring applicant's attention with respect to those "questionable" applications. Petitioner also provides page 14 of that spreadsheet to allege support for the assertion that a correspondence address change for the subject application.

A review of the file record and the subject petition reveals that the subject application was not associated with a customer number when it was filed. Petitioner states that an e-mail was sent to the Office requesting association of a spreadsheet of cases with a customer number. Petitioner did not provide a copy of the initial e-mail request in order to ascertain what was requested or a copy of the original spreadsheet which would confirm the request with respect to the applications listed in said spreadsheet. Instead, the evidence submitted by the petitioner included a copy of an e-mail response from the Office and a copy of page 14 of the spreadsheet which accompanied the Office's e-mail, which states that there were questions with respect to the subject application and requested a response. The subject petition did not include any evidence of a response to the Office's request.

Therefore, the petition merely presents an allegation of requesting association of the subject application to a customer number and the change of correspondence address with respect to the customer number. Had applicant's request for association of the subject application to a customer number been improper, which the e-mail response from the Office appears to suggest, then the application would not have been associated with a customer number. Petitioner's evidence is found to be lacking to show otherwise.

Accordingly, the petition is **DENIED.**

Any request for reconsideration must be submitted within TWO (2) Months from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. The reconsideration request should be a cover letter entitled "Renewed petition to Withdraw the Holding of Abandonment." This is not a final agency action within the meaning of 5 USC 704. Petitioner may wish to consider filing a Petition to Revive an Abandoned Application under 37 CFR 1.137.

It is further noted from the file record that the applicant timely filed an amendment after non-final Office action on November 13, 2001. If applicant(s) do not timely receive a response to their amendment, applicant(s) should inquired as to the status of the application in accordance with MPEP §203.08.

MPEP §203.08 [R-2] Status Inquiries, states in part:

> II. < AMENDED APPLICATIONS
>
> Amended applications are expected to be taken up by the examiner and an action completed within two months of the date the examiner receives the application. Accordingly, a status inquiry is not in order after reply by the attorney until 5 or 6 months have elapsed with no response from the Office.> However, in the event that a six month period has elapsed, and no response from the Office is received, applicant should inquire as to the status of the application to avoid potential abandonment. Applicants are encouraged to use PAIR to make status inquiries. See subsection III below.< A >stamped< postcard receipt for replies to Office actions, adequately and specifically identifying the papers filed, will be considered prima facie proof of receipt of such papers. >See MPEP § 503.< Where such proof indicates the timely filing of a reply, the submission of a copy of the postcard with a copy of the reply will ordinarily obviate the need for a petition to revive. Proof of receipt of a timely reply to a final action will obviate the need for a petition to revive only if the reply was in compliance with 37 CFR 1.113. [emphasis added]

The application file will be forwarded back to the file repository.

Dwayne Bost
Special Program Examiner
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. 13

ARNOLD B SILVERMAN
600 GRANT STREET
44TH FLOOR
PITTSBURGH, PA 15219

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APR 1 9 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Howard M. Kingston
Application No. 09/262,597
Filed: March 4, 1999
Attorney Docket No. 119994-5

This is a decision on the petition under 37 CFR 1.137(b), filed March 28, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 25, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 26, 2001.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on March 28, 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 $460.00 extension of time submitted with the petition on March 28, 2002 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.

The application file is being forwarded to Technology Center 1614 for further processing.

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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PITTSBURGH, PA 15219

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JUL 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Howard M. Kingston :
Application No. 09/262,597 :
Filed: March 4, 1999 :
Attorney Docket No. 119994-5 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2004[1], 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 3, 2003, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned at midnight on December 3, 2003.

The USPTO mailed a Notice of Improper RCE on January 7, 2004. The Notice indicated the Request for Continued Prosecution Application (RCE) filed on December 5, 2003, was found improper as the continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. In view of the above, the $385.00 fee submitted for the RCE is unnecessary and will be refunded to petitioner's Deposit Account No. 02-2556 as authorized.

The application matter is being forwarded to Technology Center 1600, Art Unit 1614 for further processing.

[1] While the petition indicates that a petition to revive was previously filed on January 14, 2004, this paper has not been located to date; however, the Office of Finance records for this file discloses that a $665 fee was assessed to a petition bearing a January 16, 2004 mail room date. Since the Petition fee was charged on January 16, 2004 and June 10, 2004, a refund of $665 for the petition fee submitted on June 10, 2004, will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
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)
6231830	2001-05-15	09262618	1999-03-04	

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

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/George Madray/	Date (YYYY-MM-DD)	2009-08-05
Name	George Madray		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6231830
Issue Date: May 15,2001
Application No. 09262618
Filed: March 4,1999
Attorney Docket No.

:

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

:

This is a decision on the electronic petition, filed August 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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

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

JUN 2 - 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GRAY, CARY, WARE & FREIDENRICH LLP
1221 SOUTH MOPAC EXPRESSWAY
SUITE 400
AUSTIN TX 78746-6875

In re Application of:
Penberth et al.
Application No. 09/262,778
Filed: March 4, 1999
For: METHOD AND SYSTEM FOR CALIBRATING THE SCAN AMPLITUDE OF AN ELECTRON BEAM LITHOGRAPHY INSTRUMENT

DECISION ON PETITION

This is a decision on the petition filed July 29, 2002 under 37 CFR § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to timely file a proper reply to the non-final Office action mailed August 29, 2001. A Notice of Abandonment was mailed on July 3, 2002.

Petitioner states that a timely filed response was filed via facsimile transmission on November 29, 2001. In support, Petitioner has submitted a copy of the following:

- A facsimile transmission cover sheet for the response amendment indicating eleven pages including the cover sheet.
- A facsimile transmission report showing eleven pages sent "OK" on November 29 at 1548.
- The ten page response amendment.
- An Auto-Reply Facsimile Transmission from the Patent and Trademark Office (PTO) showing receipt of eleven pages on November 29, 2001.

The Auto-Reply sent by the PTO indicates receipt of a facsimile transmission for the above identified application. The Auto-Reply shows receipt in the PTO of eleven pages including a cover sheet. The copy of the cover sheet itemizes the response amendment.

Consequently, it is determined that the original reply was timely received in the PTO on November 29, 2001.

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 amendment. From there, the file will be forwarded to the examiner for further examination in due course.

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

MAILED

SEP 15 2000

Group 2700

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

Paper No. 7

Sam Pasternack
CHOATE, HALL & STEWART
Exchange Place
53 State Street
Boston, MA 02109-2891

In re Application of	:	
Neil E. Singer, et al.	:	
Application No. 09/262,781	:	
Filed: March 4, 1999	:	DECISION ON PETITION
For: DYNAMIC SYSTEM	:	TO MAKE SPECIAL
CONTROL METHOD	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed August 15, 2000, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a preliminary search was done in a foreign country along with a copy of the search report showing field of search and a listing of references deemed most closely related to the claimed subject matter (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.

For the above stated reasons, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/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/she should consider such application simultaneously with this application and should state in the official letter of such application that he/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 and Information Processing

[illegible]CE RE: CERTIFICATES OF CORRECTION

DATE : 03/20/2002 Paper No.: 23

TO : Supervisor, Art Unit 2100 (2185)

SUBJECT : Certificate of Correction Request in Patent No.: 6,314,473

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

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

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

THANK YOU FOR YOUR ASSISTANCE!

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

☐ YES ☒ NO ☐ Comments below

☐ Comments:

Supervisor

2185
Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.: US 6,314,473 B1

DATED: NOVEMBER 6, 2001

INVENTOR(S): SINGER, ET AL.

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

Column 3, paragraph 2, line 18: Delete the word "a" between the words "partial" and "fraction";

Column 29, paragraph 2, line 28: The word "ad" should be changed to "a_d";

Column 30, paragraph 3, line 44: The word "defines" should be changed to "defining";

Column 43, Claim No. 1, line 22: The word "indicang" should be changed to "indicating";

Column 43, Claim No. 1, line 28: The word "sigals" should be changed to "signals" and the word "dice" should be changed to "device";

Column 43, Claim No. 5, line 46: The word "interace" should be changed to "interface";

Column 43, Claim No. 5, line 47: The word "strage" should be changed to "storage";

Column 43, Claim No. 6, line 50: Insert the word "using" between "operate" and "an";

Column 43, Claim No. 7, line 65: Change the word "set" to "settings";

Column 45, Claim No. 15, line 16: Change the word "The" to "the".

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6312452
Issue Date: November 6,2001
Application No. 09262805
Filed: March 4,1999
Attorney Docket No. DMMT/US-038

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

This is a decision on the electronic petition, filed April 19,2010 ,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 19,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6312452	2001-11-06	09262805	1999-03-04	014458US1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 A. Holmbo/	Date (YYYY-MM-DD)	2010-04-19
Name	Todd A. Holmbo	Registration Number	42665

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 8

W WAYNE
LIAUH AND ASSOCIATES
4224 WAIALAE AVENUE
SUITE 5 388
HONOLULU HI 96816

COPY MAILED

AUG 1 9 2005

OFFICE OF PETITIONS

In re Application of Yu-Chan Chang et al. Application No. 09/262,960 Filed: March 4, 1999 Attorney Docket Number: TD99071N Title: METHOD AND MODULE FOR UNIVERSAL TEST OF COMMMUNICATION PORTS	: : : : : : : :	DECSION ON PETITION

This is a decision on the petition filed July 12, 2005, pursuant to 37 C.F.R. §1.137(a)[1], 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 May 22, 2002, 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 August 23, 2002. A notice of abandonment was mailed February 3, 2003.

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

(1) the required reply (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;
(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 (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

With the present petition, Petitioner has submitted the petition fee, a statement of facts, and the response to the non-final Office action. It is noted that the response to the non-final Office action contains a certificate of mailing dated July 23, 2002.

As such, the petition under 37 C.F.R. 1.137(a) is **GRANTED**.

After this decision is mailed, Technology Center 2100 will be advised to consider the response to the non-final Office action submitted with the present petition.

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

Paper No. 9

MAILED

MAR 11 2002

Technology Center 2100

Ditthavong & Carlson, P.C.
10507 Braddock Road
Suite A
Fairfax, Virginia 22032

In re Application of: Boris Pecheny	)	**DECISION ON PETITION**
Application No.: 09/263,068	)	**UNDER 37 C.F.R. § 1.181 TO**
Filed: March 8, 1999	)	**RESET PERIOD FOR REPLY**
For: LEXICAL CACHE	)	**DUE TO LATE RECEIPT**

This is a decision on the petition filed on February 15, 2002, requesting that the shortened statutory period for reply set forth in the Office communication mailed on November 23, 2001 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **GRANTED**.

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on February 4, 2002. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the shortened statutory period that was originally set forth in the Office communication originally mailed on November 23, 2001 is hereby reset to run FROM THE RECEIPT DATE OF February 4, 2002.

for Margaret A. Focarino, Group Director
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

BLAKLEY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

In re application of:
Gerard K. Yeh, et al.
Application No.: 09/263,114
Filed: March 5, 1999
For: METHOD AND APPARATUS FOR PROCESSING VIDEO AND GRAPHICS DATA TO CREATE A COMPOSITE OUTPUT IMAGE HAVING INDEPENDENT AND SEPARATE LAYERS OF VIDEO AND GRAPHICS

DECISION ON PETITION

MAIL

FEB 1 2 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

This is a decision on the Petition for Withdrawal of the Holding of Abandonment, filed June 19, 2002 for the above-identified application.

This application is held abandoned for failure to respond to the Restriction Requirement mailed June 6, 2001. A Notice of Abandonment was mailed April 9, 2002.

Petitioner asserts that the Restriction Requirement was received on April 1, 2002 without a mail date printed thereon. Petitioner indicates a telephone call was made to the examiner to inquire as to the mailing date of the Requirement and was at that time informed of the June 6, 2001 mailing date. A review of the record indicates that the Restriction Requirement allegedly mailed on June 6, 2001 does not have a mailing date thereon. The cover sheet of the Requirement does have a date of June 6, 2001 hand written thereon. A copy of the cover sheet was submitted with the petition and also bears the mailing date of June 6, 2001 hand written thereon. The copy of the Requirement submitted by the petitioner has a received date of April 1, 2002 stamped thereon by the receiving law firm.

Applicant has made adequate showing of late receipt of the Restriction Requirement allegedly mailed June 6, 2001.

The petition is **GRANTED.**

The holding of abandonment is withdrawn and the Notice of Abandonment vacated. It is noted that a response to the Restriction Requirement was filed on June 18, 2002. In view thereof, the Restriction Requirement will not be re-mailed. The response filed June 18, 2002 is considered timely. The application file will be forwarded to the Examiner for consideration of the response and for further action in due course.

Joseph J. Rolla, Jr., 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. 17

LIMBACH & LIMBACH, LLP
60 E. SIR FRANCIS DRAKE BLVD.
SUITE 208
LARKSPUR CA 94939

COPY MAILED

MAR 2 4 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
James C. Slater et al.
Application No. 09/263,163
Filed: March 5, 1999
Attorney Docket No. NOMA-110

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

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 27, 2001. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been filed, the application became abandoned June 28, 2001. Accordingly, a Notice of Abandonment was mailed November 6, 2001.

Petitioner files the instant petition and request for continued examination under 37 CFR 1.137(b) the requirements of which have not been met.[1]

The request for continued examination (RCE) of this application under 37 CFR 1.114 is improper since prosecution in the application had not been closed thus the required reply is missing and the petition not grantable.

In view of the above, this application remains abandoned.

---

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

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

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

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

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

It should also be noted that, there is no indication 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.

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

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

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

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

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison Ball

Patricia Faison-Ball
Petitions Attorney
Office of Petitions

cc:
WAGNER, MURABITO AND HAO LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE, CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. ~~17~~ 20

LIMBACH & LIMBACH, LLP
60 E. SIR FRANCIS DRAKE BLVD.
SUITE 208
LARKSPUR CA 94939

COPY MAILED

JUN 1 1 2003

OFFICE OF PETITIONS

In re Application of
James C. Slater et al.
Application No. 09/263,163
Filed: March 5, 1999
Attorney Docket No. NOMA-110

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 23, 2003 (certificate of mail date), to revive the above identified application.

The petition is **Granted**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 27, 2001. A petition to revive was filed September 13, 2002 and dismissed in a decision mailed March 24, 2003 as a proper response under 37 CFR 1.137(b) had not been submitted.

This application is being forwarded to Technology Center 3600 for appropriate action on the amendment filed May 23, 2003 (certificate of mail date).

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

In re Patent No. 6133645
Issue Date: October 17,2000
Application No. 09263294
Filed: March 5,1999
Attorney Docket No. 75195.00018

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

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

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)
6133645	2000-10-17	09/263,294	1999-03-05	8002A-206

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 D. Ratchford Jr./	Date (YYYY-MM-DD)	2009-05-22
Name	Richard D. Ratchford Jr.	Registration Number	53865

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

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JAN 08 2007

OFFICE OF PETITIONS

In re Application of

Ferguson, et al.

Application No. 09/263,358

Filed: March 5, 1999

Attorney Docket No. TAN98-24

DECISION ON PETITION

This is concerning the "Petition for Expedited Examination of Patent Application under 37 CFR 1.182, Status Inquiry, and Request for Consideration of Previously Submitted Amendment of October 22, 2003", filed September 18, 2006, which will be treated as petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application became abandoned on August 23, 2003, after it was believed that no response was received to non-final Office action mailed May 22, 2003. The non-final Office action allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). Although a Notice of Abandonment has not yet been issued, the application was abandoned by operation of law because no response to the non-final Office action was made of record in the application prior to the expiration of the statutory period for reply.

The instant petition maintains that the response to the non-final Office action was mailed on October 22, 2003[1], with a request for an extension of time within the second month. A copy of the Office date-stamp postcard whereby the Office acknowledged having received a response October 27, 2003, accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

[1] A certificate of mailing dated October 22, 2003, is noted on the amendment.

The petition of $400.00 will be refunded because the petition was not treated under 37 CFR 1.182.

The application file is being forwarded Technology Center 2600, GAU 2617, for further processing, including acknowledgement of the amendment filed October 27, 2003, which was filed in duplicate on September 18, 2006.

Inquires relating to this decision may directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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MAY 1 4 2007

OFFICE OF PETITIONS

In re Application of	:	
FERGUSON, et al.	:	
Application No. 09/263,358	:	DECISION ON PETITION
Filed: March 5, 1999	:	TO WITHDRAW
Attorney Docket No. TAN98-24	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 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 do not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that 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 § 3.11; 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).

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **VOLPE AND KOENIG PC**
30 SOUTH 17TH STREET
UNITED PLAZA, SUITE 1600
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: DENNIS D. FERGUSON	: DECISION ON REQUEST FOR
Patent Number	: 7593380	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/263,358	: OF WYETH
Filed	: 03/05/1999	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6032601
Issue Date: March 7,2000
Application No. 09263468
Filed: March 5,1999
Attorney Docket No. GA18-001

:

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

:

This is a decision on the electronic petition, filed April 25,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 25,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6032601	2000-03-07	09263468	1999-03-05	60433-17

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/George C. Rondeau, Jr./	Date (YYYY-MM-DD)	2008-04-25
Name	George C. Rondeau, Jr.	Registration Number	28893

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

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,999,267	1999-12-07	09/263,543	1999-03-08	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jrr/	Date (YYYY-MM-DD)	2008-05-06
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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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 5999267
Issue Date: December 7,1999
Application No. 09263543
Filed: March 8,1999
Attorney Docket No. 98020A

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO, IL 60603-5803

Mail Date: 07/12/2010

Applicant	: MICHAEL JOSEPH SOUZA	: DECISION ON REQUEST FOR
Patent Number	: 6168513	: RECALCULATION of PATENT
Issue Date	: 01/02/2001	: TERM ADJUSTMENT IN VIEW
Application No	: 09/263,644	: OF WYETH
Filed	: 03/05/1999	:
		:

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, VA22313-1450
www.uspto.gov

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE CA 94550

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AUG 13 2007

OFFICE OF PETITIONS

In re Patent No. 6,529,920 :
Issue Date: March 4, 2003 :
Application No. 09/263,672 : ON PETITION
Filed: March 5, 1999 :
Attorney Docket Number: ADV-004 :

This is a decision on the petition, filed June 4, 2007, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about March 4, 2003, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

As the petition fee of $400.00 has been received, the petition is granted.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (571) 273-9937)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 7

CHARLES M. MARMELSTEIN
ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036-5339

MAILED

FEB 2 5 2003

Technology Center 2600

In re Application of: :
Tsuyoshi Tomita :
Application No. 09/263,766 : ON PETITION
Filed: March 5, 1999 :
For: **SIGNAL PROCESSING CIRCUIT FOR PREVENTING PSEUDO LOCK OF TIMING RECOVERY PLL** :

This is a decision on the Petition filed October 2, 2002 to withdraw the holding of abandonment under MPEP 711.03(c)(II) and pursuant to 37 C.F.R. § 1.181(a).

The Notice of Abandonment was mailed July 12, 2002 for failure to response in a timely manner to the Non-Final Office action mailed October 16, 2001.

Petitioner alleges that the Office action was not received.

Based on M.P.E.P. □ 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner at the address of record (at that time);

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner fails to meet requirements (a), (b) and (c) above. The petition does not include a statement that a search of the file jacket and docket records indicates that the Office communication was not received and a copy of the docket record where the non-received Office communication would have been entered had it been received (at the correspondence address of record at that time). A review of the record finds that the non-final Office action mailed October 16, 2001 was mailed to the correct correspondence address of record ***at that time***.

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. Extensions of time under 37 C.F.R. 1.136(a) are **NOT** permitted. The reconsideration request should include a cover letter entitled A Renewed Petition To Withdraw the Holding of Abandonment. This is **not** final agency action within the meaning of 5 U.S.C. 704.

The application file is being forwarded to the file repository.

Jin F. Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 12

Arent Fox Kintner Plotkin & Kahn
1050 Connecticut Avenue, Suite 400
Washington, DC 20036-5339

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JUL 2 4 2003

OFFICE OF PETITIONS

In re Application of	:	
T. Tomita	:	
Application No. 09/263,766	:	ON PETITION
Filed: March 5, 1999	:	
Attorney Docket No. 108075-09006	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 8, 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 non-final Office action mailed October 16, 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 January 17, 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 2631 for further processing.

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

NATH & ASSOCIATES
SIXTH FLOOR
1030 FIFTEENTH STREET N.W.
WASHINGTON, DC 20005

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APR 2 4 2006

OFFICE OF PETITIONS

In re Application of Lawrence A. Fish et al Application No. 09/263,801 Filed: March 6, 1999 Attorney Docket No. SGUS0007	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 September 12, 2005.

The petition 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 Gregory B. Kang behalf of all attorneys of record who are associated with customer No. 20529.

All attorneys/agents associated with the Customer Number 20529 have been withdrawn.

Applicants are 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.

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

This application is being referred to Technology Center AU 2623 to await a reply to the non-final Office mailed January 12, 2006.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: STARGUIDE DIGITAL NETWORKS INC
ELAINE LOCKE
750 WEST JOHN CARPENTER FREEWAY
SUITE #700
IRVING, TX 75039

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)
6826294	2004-11-30	09263921	1999-03-05	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6826294
Issue Date: November 30,2004
Application No. 09263921
Filed: March 5,1999
Attorney Docket No. PHA-23.623

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

This is a decision on the electronic petition, filed May 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 27,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

BEVER HOFFMAN & HARMS, LLP
2099 GATEWAY PLACE
SUITE 320
SAN JOSE CA 95110-1017

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JUN 0 3 2002

OFFICE OF PETITIONS

In re Application of
Arons, et al.
Application No. 09/263,978
Filed: March 5, 1999
Attorney Docket No. ADV-001
FOR: PAGE IDENTIFICATION SYSTEM AND METHOD

ON PETITION

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

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 "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 properly and timely reply to the final Office action mailed April 18, 2001. Petitioners filed an IDS and Amendment After Final on May 24, 2001. The Amendment After Final failed to place this application in *prima facie* condition for allowance, as was explained in the Advisory Action, mailed June 15, 2001. Petitioners and the examiner of record conducted an interview on July 23, 2001. During the interview, the examiner stated that the interview would be considered fully responsive to the final rejection. This was recorded in the July 23, 2001 Interview Summary. However, the Examiner did not check box I, which states that it is not necessary for applicant to provide a separate record of the substance of the interview. Petitioners did not supply a separate record of the substance of the interview within one month of the interview date, as was required in the July 23, 2001 Interview Summary. Therefore, this application became abandoned on August 24, 2001. A Notice of Abandonment was mailed on November 29, 2001.

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); [1](3) a showing to the

[1] Pursuant to petitioners' authorization, deposit account No. 50-0574 will be charged the $55.00 petition fee.

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 item (3).

The May 24, 2001 Amendment After Final did not place the application in *prima facie* condition for allowance. The record shows that petitioners did not submit a statement of the substance of the interview within one month of the interview date, as was required by the Interview Summary. As stated in 37 CFR 1.133, an interview does not remove the necessity for reply to Office actions as specified in 1.135. Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See, Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

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 $640.00 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: Commissioner for Patents
Box DAC
Washington, D.C. 20231

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

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
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. 24

BEVER HOFFMAN & HARMS LLP
2099 GATEWAY PLACE
SUITE 320
SAN JOSE CA 95110-1017

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AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Arons et al	:	
Application No. 09/263,978	:	ON PETITION
Filed: March 5, 1999	:	
Attorney Docket No. ADV-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 April 18, 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 July 19, 2001.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680. Any questions concerning the examination process of this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2876.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA22313-1450
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BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE CA 94550

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AUG 0 6 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,729,543 :
Issue Date: May 4, 2004 :
Application No. 09/263,978 :
Filed: March 5, 1999 :
Attorney Docket Number: ADV-001 :

This is a decision on the petition, filed June 4, 2007, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about September 12, 2006, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

As the petition fee of $400.00 has been received, the petition is granted.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

The Publishing Division is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Publishing Division at (703) 308-9250.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor (Fax – (571) 273-9937)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-6-07

TO SPE OF : **Technology Center** 1637 09/263981

SUBJECT : Request for Certificate of Correction on Patent No.: 6869760 B2

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

Please complete this form and return with file, within **7** days to:

Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**

If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**

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

Thank You For Your Assistance

Elisha Evans
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

Note your decision on the appropriate box.

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

Comments:

_____

_____

_____

_____

_____

[signature] 1637

SPE **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)
6,179,375	2001-01-30	09/263,991	1999-03-06	30048-1

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	Brian Michaelis	Date (YYYY-MM-DD)	2009-11-16
Name	Brian L. Michaelis	Registration Number	34221

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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/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)
6179375	2001-01-30	09263991	1999-03-05	30048-1

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	/s/BLM/	Date (YYYY-MM-DD)	2009-11-16
Name	Brian L. Michaelis	Registration Number	34221

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6179375
Issue Date: January 30,2001
Application No. 09263991
Filed: March 5,1999
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

In re Patent No. 6232196
Issue Date: May 15,2001
Application No. 09264167
Filed: March 5,1999
Attorney Docket No. ASMEX.186A

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

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

The petition is **GRANTED**.

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

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

UNITED STATES 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.
09/264,174	03/05/99	DIXON S	7175-61512

TM02/0202
TIMOTHY E. NIEDNAGEL
IP DEPT., BOSE MCKINNEY & EVANS, LLP
135 NORTH PENNSYLVANIA STREET
SUITE 2700
INDIANAPOLIS IN 46204

EXAMINER	
NGUYEN, P	
ART UNIT	**PAPER NUMBER**
2632	12

DATE MAILED: 02/02/01

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, DC 20231
www.uspto.gov

Paper No. 12

Timothy E. Niednagel
IP Dept.; BOSE MCKINNEY & EVANS, LLP
135 North Pennsylvania Street
Suite 2700
Indianapolis, IN 46204

In re Application of:	)	
DIXON, et al.	)	
Application No.: 09/264,174	)	DECISION ON PETITIONS UNDER 37
Filing Date: March 05, 1999	)	C.F.R. 1.48(a) AND 1.48(b)
For: PATIENT POSITION DETECTION	)	
APPARATUS FOR A BED	)	

This is a decision on petition to correct inventorship under 37 C.F.R. 1.48(a) by adding one additional inventor, Mr. Carl W. Reily, mailed November 08, 2000, and petition to correct inventorship under 37 C.F.R. 1.48(b) by deleting two (2) inventors, Mr. Eugene E. Osborne and Mr. Jack Wilker, Jr., mailed November 08, 2000.

As to the petition under 37 C.F.R. 1.48(a), the applicants provided 1) a petition including a statement from Mr. Reily that the error in inventorship occurred without deceptive intention on his part; 2) a declaration by the actual inventors; 3) the required fee and 4) the written consent of the assignee. Therefore, the petition under 37 C.F.R. 1.48(a) is **GRANTED**.

As to the petition under 37 C.F.R. 1.48(b), the applicants submitted 1) a petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application due to the cancellation of claims 48-67 in response to a restriction requirement and 2) the required fee. Therefore, the petition under 37 C.F.R. 1.48(b) is **GRANTED**.

The application is forwarded to the Office of Initial Patent Examination for officially recording the corrected inventorship.

Jeffrey A. Hofsass, SPE
Technology Center 2600
Communications

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6257887	2001-07-10	09264333	1999-03-06	AME-T122

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jeankyle/	Date (YYYY-MM-DD)	2009-10-20
Name	Jean Kyle	Registration Number	36987

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6257887
Issue Date: July 10,2001
Application No. 09264333
Filed: March 6,1999
Attorney Docket No. 11-03-02CIP

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

This is a decision on the electronic petition, filed October 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 October 20,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Workman Nydegger/Microsoft
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

COPY MAILED

MAR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Goldman et al.	:	
Application No. 09/264,432	:	DECISION ON PETITION
Filed: March 8, 1999	:	
Attorney Docket No. 14531.46	:	

This is a decision on the petition under 37 CFR 1.181, filed February 21, 2005, to withdraw the holding of abandonment in the above-identified application.[1]

This application was held abandoned for failure to respond in a timely manner to the Notice Regarding Drawings mailed on September 20, 2005. A Notice of Abandonment was mailed on January 30, 2006. On February 21, 2005, petitioners filed the present petition. Petitioners asserted that they timely submitted corrected drawings via Express Mail on October 11, 2005.

The response, including two sheets of corrected drawings, was located in the file of application No. "09/296,423." A review of the correspondence indicates that the drawings were filed in the USPTO on October 11, 2005, but were not matched with the file due to the incorrect application number.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP Section 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the Notice of Abandonment is hereby withdrawn and the application is returned to pending status.

The petition is **GRANTED**.

[1] The present petition indicates the incorrect Application No. "09/296,423" in the header, instead of correct Application No. "09/264,432."

The matter is being referred to the Office of Patent Publication.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina 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

In re Patent No. 6205704
Issue Date: March 27,2001
Application No. 09264458
Filed: March 8,1999
Attorney Docket No. 19530-34488

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

This is a decision on the electronic petition, filed March 7,2007 ,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 March 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)
6,205,704	2001-03-27	09/264,458	1999-03-08	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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	/William C. Crutcher/	Date (YYYY-MM-DD)	2007-03-07
Name	William C. Crutcher		
Enter Reel and Frame Number		Remove	
Reel Number	009826	Frame Number	0125
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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.go

Paper No. 20

MAIL

MAY 1 3 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Micron Technology, Inc.
c/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street, NW
Washington DC 20037-1526

In re Application of
Roger PANICACCI, et al.
Application No. 09/264,501
Filed: March 8, 1999
For: READOUT CIRCUIT WITH GAIN AND ANALOG-TO-DIGITAL CONVERSION FOR IMAGE SENSOR

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition for Withdrawal of Abandonment, filed March 26, 2004, requesting the holding of abandonment be withdrawn in the above-identified application. No fee is required.

This application was held abandoned for failure to timely submit a response to the final Office action mailed June 18, 2003. A Notice of Abandonment was mailed March 24, 2004.

Petitioner alleges that the final Office action was not 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), 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. Therefore, the Notice of Abandonment is vacated and the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application is being forwarded to the Technology Center's technical support staff for re-mailing the final Office action originally mailed June 18, 2003. The shortened statutory period will be re-set to begin as of the mailing thereof.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 36

Townsend and Townsend and Crew
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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FEB 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Timothy N. Jones et al.	:	
Application No. 09/264,547	:	ON PETITION
Filed: March 8, 1999	:	
Attorney Docket No. 018563-006000US/AT00109	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 4, 2003, 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 May 5, 2003. See MPEP 1215.04.

The application file is being forwarded to Technology Center AU 3732 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 24, 2003 Brian Zimmerman 69173

Paper No.: 17

TO SPE OF : ART UNIT 2635

SUBJECT : Request for Certificate of Correction on Patent No.: 6603391

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

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

Thank You For Your Assistance

Antonio J. Thomas
Certificates of Correction Branch

The Request for Certificate of Correction in the above-identified patent 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:

MICHAEL HORABIK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2635
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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P.O. Box 1450
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In re Patent No. 6250163
Issue Date: June 26,2001
Application No. 09265436
Filed: March 9,1999
Attorney Docket No. 6031

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

This is a decision on the electronic petition, filed June 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 7,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6250163	2001-06-26	09265436	1999-03-09	Case 6031

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/emarich/	Date (YYYY-MM-DD)	2010-06-07
Name	Eric Marich	Registration Number	32265

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

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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. 20

STEVEN J. ROCCI
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADEPHIA, PA 19103

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of	:	
David C. Tannenbaum	:	
Application No. 09/265,493	:	DECISION GRANTING PETITION
Filed: March 9, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. MSFT-1167	:	

This is a decision on the petition, filed December 20, 2002, requesting withdrawal of the holding of abandonment (under 37 CFR 1.181), and on the petition under 37 CFR 1.137(b), filed May 29, 2003, to revive the above-identified application.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED AS MOOT** in view of the supplemental statement filed June 10, 2003 requesting that this petition be withdrawn from consideration.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the July 18, 2001 nonfinal Office action; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of April 18, 2002 is accepted as having been unintentionally delayed.

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 2672 for appropriate action on the reply received May 29, 2003 to the July 18, 2001 Office action.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OIW 03-02

Paper No. 23

PENNIE & EDMONDS LLP
1155 AVENUE OF THE AMERICAS
NEW YORK NY 10036-2711

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MAR 2 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Benfey et al.	:	
Application No. 09/265,585	:	DECISION GRANTING PETITION
Filed: 10 March, 2001	:	
Attorney Docket No. 5914-066	:	

This is a decision on the petition, filed on 6 December, 2001, under 37 CFR 1.10(c), which is treated as a petition to withdraw the holding of abandonment.

The application became abandoned on 13 September, 2001, for failure to timely submit a reply to the Office action requiring restriction mailed on 12 March, 2001, which set a one (1) month shortened statutory period for reply. The filing of the present petition precedes the mailing of a Notice of Abandonment. A reply to the Office action and a five (5) month extension of time, *inter alia*, were received on 13 September, 2001.

Petitioners assert that the reply and five (5) month extension of time were timely filed on 12 September, 2001, via USPS "Express Mail" Service. In support, petitioners have provided a copy of Express Mail Label No. EL501641534US, the same Express Mail number found on the cover sheet accompanying petitioner's reply and the extension of time received on 13 September, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date-In" on the Express Mail label.[1] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the reply, including the five (5) month extension of time was deposited as "Express Mail" with the U.S. Postal Service on 12 September, 2001.

---

[1] MPEP 513.

In view of the above the petition under 37 CFR 1.10(c) is granted. The holding of abandonment is withdrawn. No petition fee is due and none has been charged.

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

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

D Wood

Douglas I. Wood
Petitions Attorney
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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JJGJr.: 08-02

Paper 9

KURT G BRISCOE
NORRIS MCLAUGHLIN
& MARCUS, PA
30th FLOOR
220 EAST 42nd STREET
NEW YORK, NY 10017

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NOV 0 8 2002

OFFICE OF PETITIONS

In re Application of
Gers-Barlag, et al. :
Application No. 09/265,779 : ON PETITION
Filed: 10 March, 1999 :
Attorney Docket No.: Beiersdorf 416.2-KGB :

This is a decision on the pleadings filed on 21 October, 2002, under 37 C.F.R. §1.137(b)[1] to revive the above-identified application.

For the reasons set forth below, the petition is **GRANTED**.[2]

BACKGROUND

A review of the record reveals:

- the instant application (Application No. 09/265,779 (the '779 application) was filed on 10 March, 1999, as a divisional application of the parent Application No. 08/788,147 (the '147 application), which then issued as a Patent No. 5,968,483 (the '483 patent) on 19 October, 1999;

---

[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.)

[2] Pursuant to Petitioner's authorization, the petition fee ($1,280.00) is charged and the incorrect fee ($110.00) previously charged is credited to Deposit Account 14-1263.

- contemporaneously with the '779 application Petitioner filed a preliminary amendment, and on 22 June, 1999, the Examiner issued a non-final Office action rejecting pending claims 7 - 12, and setting out a three- (3-) month shortened statutory period (SSP) for reply;

- Petitioner at first contended that he then-intended to file (via U.S. Postal Service (USPS) Express Mail, Label No. EE559518099US) into the '779 application a continued prosecution application (CPA) with a request and fee for a three- (3-) month extension of time, however:

  --even on the second consideration of Petitioner's demand for the withdrawal of the holding of abandonment, Petitioner failed to submit a copy of the date-stamped USPS Express Mail Label No. EE559518099US evidencing receipt thereof by the USPS;

  --consecutive multiple searches of the USPS Tracking system <u>and</u> the Office Express Mail database evidence <u>no record of receipt for transmittal by the USPS of a such-numbered item</u>, nor its receipt by the Office;

  --while Petitioner contended he intended to file the materials in question into the '779 application, the copies of the papers submitted by Petitioner clearly showed that if they were submitted--a contention certainly in question--he attempted to file the papers not into the '779 application but into the '147 application (then-no-longer pending but having issued as the '483 patent);[3]

- when no proper and timely response was filed, the instant '779 application went abandoned after midnight 22 September, 1999;

- Notice of Abandonment was mailed on 16 March, 2000;

- while Petitioner contends that:

  --he received the Notice of Abandonment on 20 March, 2000, and submitted via FAX on 21 March, 2000, copies of the alleged 22 December, 1999, filing; and

  --he then submitted a written 29 August, 2000, Status Inquiry and made telephone inquiries on 24 October, 2000, and 6 February, 2001,

  the record clearly demonstrated that notwithstanding Petitioner's contentions, Petitioner's written inquiry was made not into the '779 application but into the already issued '147 application--the '483 patent;

---

[3] Even the "Notice of Change of Firm Name" alleged to have been filed by Petitioner on 22 December, 1999, contained the incorrect '147 application number. However, as demonstrated by the lack of documentary proof of submission, it appears not unlikely that even this erroneous notice never was mailed by Petitioner.

- through his first petition to the Group Director and second petition seeking to overturn the decision of the Group Director, Petitioner contended that the Office failed to follow its procedures as set forth in MPEP §201.06(d);[4]

---

[4] The commentary at MPEP §201.06(d) provides in pertinent part:
201.06(d) 37 C.F.R. 1.53(d) Continued Prosecution Application (CPA) Practice

* * *

IN GENERAL

In addition to the provisions of 37 C.F.R. 1.53(b), a continuation or divisional (but not a continuation-in-part) application may be filed under 37 C.F.R. 1.53(d) if the prior application is: (A) a utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, and is complete as defined by 37 C.F.R. 1.51(b); (B) a design application that is complete as defined by 37 C.F.R. 1.51(b); or © the national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000, and is in compliance with 35 U.S.C. 371. Applicant may wish to consider filing a request for continued examination (RCE) under 37 C.F.R. 1.114 for utility or plant applications filed on or after May 29, 2000. See MPEP § 706.07(h). A continuation or divisional application filed under 37 C.F.R. 1.53(d) is called a "Continued Prosecution Application" or "CPA." A CPA has a number of advantages compared to a continuation or divisional application filed under 37 C.F.R. 1.53(b).

* * *

CONDITIONS FOR FILING A CPA

A continuation or divisional application may be filed under 37 C.F.R. 1.53(d), if the prior nonprovisional application is: (A) a utility or plant application that was filed under 35 U.S.C. 111(a) before May 29, 2000, and is complete as defined by 37 C.F.R. 1.51(b); (B) a design application that is complete as defined by 37 C.F.R. 1.51(b); or © the national stage of an international application that was filed under 35 U.S.C. 363 before May 29, 2000, and is in compliance with 35 U.S.C. 371. The term "prior nonprovisional application" in 37 C.F.R. 1.53(d)(1) means the nonprovisional application immediately prior to the CPA. A complete application as defined by 37 C.F.R. 1.51(b) and a "national stage of an international application in compliance with 35 U.S.C. 371" must each contain, *inter alia*, the appropriate filing fee and a signed oath or declaration under 37 C.F.R. 1.63. In addition, a continuation or divisional application filed under 37 C.F.R. 1.53(d) must be filed before the earliest of: (A) payment of the issue fee on the prior application, unless a petition under 37 C.F.R. 1.313© is granted in the prior application; (B) abandonment of the prior application; or © termination of proceedings on the prior application.

INITIAL PROCESSING

A CPA request will be initially processed by the TC assigned the prior application. The TC will verify that (A) the prior application is a utility or plant application or a national stage of an international application filed before May 29, 2000, or is a design application, (B) the correct application number of the prior nonprovisional application is identified in the request, © the request is properly signed, (D) the prior nonprovisional application was pending on, and that the issue fee has not been paid in the prior non-provisional application on or prior to, the filing date of the CPA request, (E) the prior nonprovisional application was complete under 37 C.F.R. 1.51(b) (e.g., the filing fee has been paid and a signed oath or declaration under 37 C.F.R. 1.63 has been filed in the prior application), and (F) the proper filing fee has been paid in the CPA. If a CPA request of a utility or plant application or a national stage of an international application that was filed on or after May 29, 2000 is filed, the CPA is improper and will automatically be treated as a request for continued examination (RCE) under 37 C.F.R. 1.114, see MPEP § 706.07(h), paragraph IV. If one or more other conditions for filing a CPA have not been satisfied or the proper filing fee has not been paid, the applicant will be so notified and no examination will be made in the CPA until the filing error has been corrected or the proper filing fee submitted. See 37 C.F.R. 1.53(h). If an examiner discovers that an improper or incomplete CPA has been forwarded to the examiner in error, the application should be immediately returned to a supervisory applications examiner (SAE) within the TC. The improper or incomplete CPA is not to be returned to OIPE.

INCORRECT PARENT APPLICATION NUMBER IDENTIFIED

A request for a CPA must identify the prior nonprovisional application (37 C.F.R. 1.53(d)(2)(I)) by application number (series code and serial number) or by serial number and filing date. Where a paper requesting a CPA is filed which does not properly identify the prior nonprovisional application number, the TC should attempt to identify the proper application number by reference to other identifying information provided in the CPA papers, e.g., name of the inventor, filing date, title of the invention, and attorney's docket number of the prior application. If the TC is able to identify the correct application number of the prior application, the correct application number should be entered in red ink on the paper requesting the CPA and the entry should be dated and initialed. If the TC is unable to identify the application number of the prior application and the party submitting the CPA papers is a registered practitioner, the practitioner may be requested by telephone to supply a letter signed by the practitioner providing the correct application number. If all attempts to obtain the correct application number are unsuccessful, the paper requesting the CPA should be returned by the TC to the sender where a return address is available. The returned CPA request must be accompanied by a cover letter which will indicate to the sender that if the returned CPA request is resubmitted to the U.S. Patent and Trademark Office with the correct application number within two weeks of the mail date on the cover letter, the original date of receipt of the CPA request will be considered by the U.S. Patent and Trademark Office as the date of receipt of the CPA request. See 37 C.F.R. 1.5(a). A copy of the returned CPA request and a copy of the date-stamped cover letter should be retained by the TC. Applicants may use either the Certificate of Mailing or Transmission procedure under 37 C.F.R. 1.8 or the "Express Mail" procedure under 37 C.F.R. 1.10 for resubmissions of returned CPA requests if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned CPA request is not resubmitted within the two-week period with the correct application number, the TC should cancel the original "Office Date" stamp on the CPA request and re-stamp the returned CPA request with the date of receipt of the resubmission or with the date of deposit as "Express Mail" with the United States Postal Service, if the CPA request is resubmitted under 37 C.F.R. 1.10. Where the CPA request is resubmitted later than two weeks after the return mailing by the U.S. Patent and Trademark Office, the later date of receipt or date of deposit as "Express Mail" of the resubmission will be considered to be the filing date of the CPA request. The two-week period to resubmit the returned CPA request is not extendible. See 37 C.F.R. 1.5(a). In addition to identifying the application number of the prior application, applicant is urged to furnish in the request for a CPA the following information relating to the prior application to the best of his or her ability: (A) title of invention; (B) name of applicant(s); and © correspondence address. See 37 C.F.R. 1.53(d)(8).

- the petition filed 20 September, 2001, was dismissed on 19 August, 2002;
- with the instant petition (and fee) of 21 October, 2002, Petitioner also filed a reply in the form of a continued prosecution application (CPA), a preliminary amendment, and made the required statement of unintentional delay.

For the foregoing reasons, the petition hereby is **granted**.

The application is returned to Technology Center 1600 for processing of the CPA and further examination 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

UNITED STATES
PATENT AND
TRADEMARK OFFICE

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

JUL 17 2001

#7

KURT G. BRISCOE, ESQ.
NORRIS, MCLAUGHLIN & MARCUS, P.A.
660 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591-5514

In re Application of
Heinrich Gers-Barlag et al
Serial No.: 09/265,779
Filed: March 10, 1999
Attorney Docket No.: Beiersdorf 416.2-KGB

:WITHDRAWAL OF ABANDONMENT

This is in response to applicants' petition under 37 CFR 1.181, filed March 26, 2001, requesting revival of the above-identified application based on timely filing of a response to an Office action.

A review of the file history shows the examiner mailed an Office action to applicants on June 22, 1999, setting a three month shortened statutory period for reply. Upon failure to receive a reply the application was held abandoned by Notice of Abandonment mailed March 16, 2000.

Applicants state that Continued Prosecution Application (CPA) papers were filed on December 22, 1999, including a Petition for a Three Month Extension of Time and fees therefor. However, all papers filed referred to prior application number 08/788,147, which is the parent of 09/265,779, the instant application. After applicants received the Notice of Abandonment, applicants resubmitted the CPA and Petition for a Three Month Extension of Time via fax on March 21, 2000 (apparently without correcting the Serial No.). However, while the fax cover sheet referred to application number 09/265,779, the originally submitted CPA and Petition for a Three Month Extension of Time referred to parent application 08/788,147. Subsequent written status inquiries were not answered by the Office. Applicants state on March 1, 2001, Ms. Rosa Thomas indicated by telephone that the application was still regarded as abandoned, and that a petition seeking to withdraw the holding of abandonment should be filed.

Applicants include as evidence of timely reply a copy of the fax confirmation, fax cover sheet, CPA Request Transmittal, Petition for Extension of Time, Notice of Change of Firm Name, Express Mail Label, and status letter dated August 29, 2000. All of these papers include as the application Serial No. 08/788,147. Applicants also include a copy of the Express Mail Certificate dated December 22, 1999, and an unexecuted copy of the Express Mail Label.

Applicants quote M.P.E.P. 201.06(d), as follows:

> A request for a CPA must identify the prior nonprovisional application (37 CFR 1.53(d)(2)(I)) by application number (series code and serial number) or by serial number and filing date. Where a paper requesting a CPA is filed which does not properly identify the prior nonprovisional application number, the patent examining group should attempt to identify the proper application number by reference to other identifying information

provided in the CPA papers, e.g., name of the inventor, filing date, title of the invention, and attorney's docket number of the prior application. If the patent examining group is able to identify the correct application number of the prior application, the correct application number should be entered in red ink on the paper requesting the CPA and the entry should be dated and initialed. If the patent examining group is unable to identify the application number of the prior application and the party submitting the CPA papers is a registered practitioner, the practitioner may be requested by telephone to supply a letter signed by the practitioner providing the correct application number.

Obviously applicants did not identify the correct application number for which the CPA papers were filed, as required. The identifying indicia contained in the papers refer to a parent application and contain the correct Serial No. and filing date thereof and which has the same inventorship, title, and strikingly similar docket number (differing only in the last digits). It is noted that the attorney docket number for the CPA papers does not match in all respects the attorney docket number of Serial No. 09/265,779. Thus, despite reasonable efforts the originally filed papers could not be identified as belonging to Serial No. 09/265,779. The filed papers were likely correlated with the application to which they were directed, namely Serial No. 08/788,147. However, upon correlation such papers would have been considered improper as Serial No. 08/788,147 issued as a patent on October 19, 1999, two months before the papers were filed. Since all of the identifying indicia on the CPA papers was consistent with the application to which they were mistakenly directed, the Office had no reason to make any further effort to identify another application to which the papers could have been directed. Had the identifying indicia not been consistent with the mistakenly identified application (applicants' names were different, different docket number, etc.) the Office would have expended some effort to identify the correct application to which the papers should have been directed. The Office cannot be held responsible for fixing applicants' errors. The Office does make an effort to determine correct Serial No's where there is a clear error (e.g. transposed digits) in the Serial No. Such is not the fact situation here..

It is noted that this application only contains CPA papers which still have the wrong parent application Serial No. Applicants have made no effort to correct the error in the filed papers.

Applicants' petition is **DENIED**.

Any request for reconsideration of this decision must be in the form of a renewed petition under 37 CFR 1.181 or, alternatively, under 37 CFR 1.137 and must be filed within TWO MONTHS of the mailing date of this decision. Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 305-7230.

Jasemine C. Chambers

Jasemine C. Chambers
Director, Technology Center 1600

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 31

FISH & RICHARDSON P.C.
45 ROCKEFELLER PLAZA
SUITE 2800
NEW YORK, NY 10111

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JUL 2 9 2003

OFFICE OF PETITIONS

In re Application of
Robert Zhong Lu et al
Application No. 09/265,788
Filed: March 10, 1999
Attorney Docket No. 08291/482001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 10, 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 December 17, 2002, 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, the filing of a continuing application, or 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 request for filing of a continuing application, and no Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 18, 2003.

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 1774 for processing of the request for continued examination (RCE) under 37 CFR 1.114.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 29, 2006

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/265788 Patent No.: 6,930,081

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**.

RECEIVED
APR 12 2006
TC 1700

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1724
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 29, 2006

TO SPE OF : ART UNIT 1774

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/265788 Patent No.: 6,930,081

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**.

RECEIVED
APR 12 2006
TC 1700

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1774
Art Unit

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6381636	2002-04-30	09265920	1999-03-10	RPS919980097US1-LEN106483

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Anthony M. Del Zoppo, III/	Date (YYYY-MM-DD)	2008-01-10
Name	Anthony M. Del Zoppo, III	Registration Number	51606

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6381636
Issue Date: April 30,2002
Application No. 09265920
Filed: March 10,1999
Attorney Docket No. RP9-98-097

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

This is a decision on the electronic petition, filed January 10,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 10,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

#13

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MAY 1 0 2001

Office of the Director
Group 3600

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

In re Application of	:	
Nabil Husseini et al	:	WITHDRAWAL
Serial No.: 09/265,946	:	FROM ISSUE
Filed: March 11, 1999	:	
For: AMMUNITION ARTICLES WITH PLASTIC COMPONENTS AND METHOD OF MAKING AMMUNITION ARTICLES WITH PLASTIC COMPONENTS		

The above-identified application has been withdrawn from issue for the purpose of reopening prosecution. The reasons therefor will be communicated to you shortly by the examiner.

The Notice of Allowance is vacated. A new Notice of Allowance will be mailed when the applicaiton is again found to be allowable. No patent number or issue date has been granted.

The application is being forwarded to the examiner for an action on the merits.

John F. Terapane
Director, Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEPHEN A GRATTON
2764 SOUTH BRAUN WAY
LAKEWOOD CO 80228

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OFFICE OF PETITIONS

In re Application of	:	
Farnworth et al.	:	
Application No. 09/266,237	:	ON PETITION
Filed: March 10, 1999	:	
Attorney Docket No. 97-1433	:	

This is a decision on the petition to accept late payment of issue fee, filed October 14, 2004 and March 8, 2005, to revive the above-identified application. In view of the allegation in the petition of the timely filing of a reply and the evidence submitted in support thereof, the petition is more properly a petition under 37 CFR 1.181 requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

Petitioner states that the Notice of Allowance was never received. An allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

Petitioner has complied with the above and submitted a copy of the docket report. In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the $130.00 petition fee will be credited to petitioner's deposit account as authorized.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioner has also submitted the Issue Fee Transmittal along with the issue fee payment, and new Formal Drawings.

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

This matter is being referred to the Publishing Division.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 10

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
2421 N.W. 41ST STREET
SUITE A-1
GAINESVILLE, FL 32606-6669

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FEB 1 0 2003

OFFICE OF PETITIONS

In re Application of :
Jack L. Aronowitz et al :
Application No. 09/266,346 : ON PETITION
Filed: March 11, 1999 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed December 30, 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 Notice to File Missing Parts of Application (Notice) mailed April 8, 1999. 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 June 9, 1999.

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

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire

into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

The application file is being forwarded to the Initial Patent Examination Unit.

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

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Paper No. 14

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Jack L. Aronowitz et al	:	
Application No. 09/266,346	:	ON PETITION
Filed: March 11, 1999	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of :
Jack L. Aronowitz et al :
Application No. 09/266,346 : ON PETITION
Filed: March 11, 1999 :
Attorney Docket No. :

CORRECTED DECISION

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

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to reply in a timely manner to Notice to file Missing parts of Application (Notice) mailed April 8, 1999. 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 June 9, 1999.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The declaration submitted with petition on December 30, 2002 lack compliance with § 1.63(b)(2). The executed declaration did not name all of the inventors. See MPEP 602, which states:

> Where joint inventors execute separate oaths or declarations each oath or declaration should make reference to the fact that the affiant is a joint inventor together with other joint inventors indicating them by name.

Since the declaration executed by Inventor Joel R. Mitchen does not name the other joint inventors, the declaration is considered to be defective. In view thereof, Mr. Mitchen has not joined in the filing of the instant application. Accordingly, a substitute declaration executed by joint Inventor Mitchen and setting forth the other named inventors is required to be submitted within the time period specified above.

The decision mailed February 10, 2003 is hereby vacated as of the mail date of this decision.

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:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 11

MAR 4 2003

Winston Hsu
P.O. BOX 506
MERRIFIELD, VA 22116

In re Application of
Chang, *et al.*
Application No.: 09/266,834
Filed: March 12, 1999
Docket No.: ADI-039

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in on the petition, filed August 21, 2002, to withdraw the holding of abandonment for the above identified application. No fee is required.

The petition is granted.

The application was held abandoned for failure to timely reply to the Office action mailed December 30, 1999. A Notice of Abandonment was mailed on July 28, 2000.

The petitioner asserts that the Office communications were not received by the practitioner and a search of the file and docket records indicate that the Office communication was not received. To support this assertion, the petitioner has provided a copy of the docket records where the non-received Office action would have been entered had it been received.

A review of the application file record reveals that Office action of December 30, 1999 and the Notice of Abandonment were mailed to an incorrect address. Accordingly, vacating the Notice of Abandonment and remailing the Office action is appropriate.

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

The instant petition is accompanied by a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period between the mail date of the notice of abandonment and the filing date of this petition to withdraw the holding of abandonment. A terminal disclaimer may be accepted for a petition that was not filed within two months from the action complained of. In the instant case, the Office communications were not received by the applicant because they were mailed to an incorrect address, as such petitioner was not aware that the application was abandoned until August 07, 2002. This petition was filed on August 21, 2002. In view of the above, the terminal disclaimer is deemed unwarranted and therefore will not be accepted.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action of December 30, 1999. The shortened statutory period for response set therein will be reset to run three months from the date the Office action is remailed. Extensions of time are governed by 37 C.F.R. 1.136(a).

Inquiries related to this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

Lissi Mojica Marquis, Special Programs Examiner
Technology 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 22

SNELL & WILMER LLP
ONE ARIZONA CENTER
400 EAST VAN BUREN
PHOENIX, AZ 85004-2202

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MAR 0 9 2004

OFFICE OF PETITIONS

In re Application of
Burke et al.
Application No. 09/267,176
Filed: March 12, 1999
Attorney Docket No. 32277.0200

ON PETITION

This decision concerns the February 23, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

On February 6, 2003, a final Office action was mailed, setting forth a 3-month shortened statutory reply period. On May 9, 2003 (Certificate of Mailing date May 6, 2003), a response in the form of a Notice of Appeal was timely filed.

Applicants did not file an Appeal Brief on or before December 9, 2003, or obtain any extension of time under 37 CFR 1,136(a). Since no claims stood allowed under the February 6, 2003 final Office Action, the appeal was dismissed and the application became abandoned on July 10, 2003.

The instant petition encloses a request for continued examination (RCE); an amendment as the RCE "submission" required by 37 CFR 1.114; and an authorization to charge the $385 RCE filing fee (small entity) and the $665 petition fee (small entity) to Deposit Account No. 19-2814. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE.

The application file is being returned to Technology Center 3600 for continued examination.

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

RC Tang
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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Patent No. : 6920143 B1
Ser. No. : 09/267,178
Inventor(s) : ORTIZ, LUIS
Issued : 07/19/05
Title : **COMPUTER TELEPHONY SYSTEM USING MULTIPLE HARDWARE PLATFORMS TO PROVIDE TELEPHONY SERVICES**
Docket No. : **02324/019001**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

MORRIS LISS
POLLOCK VANDE SANDE & AMERNICK
P O BOX 19088
WASHINGTON DC 20036-3425

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FEB 1 0 2004

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,392,338
Issue Date: May 21, 2002
Application No. **09/267,354**
Filed: March 15, 1999
Title of Invention: ORGANIC LIGHT EMITTER HAVING OPTICAL WAVEGUIDE FOR PROPAGATING LIGHT ALONG THE SURFACE OF THE SUBSTRATE

This is a decision on the petition filed December 18, 2003 under 37 CFR 1.183 to waive the rules of 37 CFR 3.81(a) and accept the correction of the assignee on the front page of the above-identified patent. This decision is also rendered in response to the requested certificate of correction filed September 30, 2003, pursuant to 37 CFR 1.323.

The petition under 37 CFR 1.183 is **GRANTED**.

The request for a certificate of correction under 37 CFR 1.323 is **GRANTED**.

Assignment data printed on the patent is based solely on the information so supplied on the issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B), submitted February 28, 2002 identified the assignee as Matsushita Electrical Industrial Co., Ltd, in Osaka, Japan.

Therefore, on the face of the patent, the assignee should be corrected as follows:

Assignee: Matsushita Electric Industrial Co., Ltd
Osaka (JP)

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been charged to deposit account 22-0185.

Additionally, a courtesy copy of this decision is being mailed to petitioner. However, any future correspondence regarding this application will be mailed to the address of record.

This file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
MORRIS LISS
CONNOLLY BOVE LODGE & HUTZ LLP
1990 M STREET, NW, SUITE 800
WASHINGTON, DC 20036-3425

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : **AUGUST 16, 2004** Paper No.: 18

TO SPE : **2100**

SUBJECT : Certificate of Correction Request in Patent No.: **6499060 B1**

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

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

Virginia Tolbert
Legal Instrument Examiner

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

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whether all changes requested in the Request for Certificate of Correction should be applied. Please specify which changes should not be applied and indicate the reason(s) for denial, in the "Comments" section below.

☒ YES ☐ NO

☐ Comments: _____

Supervisor

2157
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,499,060 B1
DATED : December 24, 2002
INVENTOR(S) : Wang et al.

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

Column 8,
Lines 62-63, "before being using" should read -- before using --.

Column 15,
Lines 55-56, "based a" should read -- based on a --.

Column 16,
Line 46, "starting" should read -- start --.

Column 19,
Line 26, "there multiple" should read -- there are multiple --.

Column 20,
Line 5, "including;" should read -- including: --.

Column 21,
Lines 6 and 9, "claim 14" should read -- claim 15 --.
Line 10, "based a" should read -- based on a --.
Lines 19-23, claim 21 was printed in error.

Column 22,
Lines 4-14, claim 26 was printed in error.
Line 32, "based a" should read -- based on a --.

Column 24,
Lines 36-67, should read:

-- 39. The method of claim 15 wherein the remotely predicted units are classified dynamically during transmission of previously encoded data units based on a measure of data transer reliability.

40. A method for coding streaming media comprising a series of data units, the method comprising:

classifying each of the data units in the series as one of the following types of encoded data units: an independent unit, a predicted unit, and a remotely predicted unit, such that the data units in the series are organized into segments, and each segment has an independent data unit, two or more predicted units and at least one remotely predicted unit, wherein the independent data unit is a data recovery point and a random access point in the series of data units, and the remotely predicted unit is a data recovery point in the series of data units that is classified independently from the random access point and is coded with more efficiency than the independent data unit;

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,499,060 B1
DATED : December 24, 2002
INVENTOR(S) : Wang et al.

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

Column 24 (cont'd),

encoding each of the data units classified as an independent data unit in a compressed format using only information from the data unit;

encoding each of the data units classified as a predicted unit in a compressed format by encoding differences between the data unit and an adjacent data unit in the series; and

encoding each of the data units classified as a remotely predicted unit in a compressed format by encoding differences between the data unit and a remote, non-adjacent data unit in the segment, selected as either the independent unit or another remotely predicted unit in the segment. --.

Signed and Sealed this

Ninth Day of November, 2004

Jon W. Dudas

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6240787	2001-06-05	09267808	1999-03-12	4215LA-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

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	/Lloyd G. Alexander/	Date (YYYY-MM-DD)	2009-08-04
Name	Lloyd G. Alexander		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6240787
Issue Date: June 5,2001
Application No. 09267808
Filed: March 12,1999
Attorney Docket No. 4215LA-1

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 26 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

John F. Wood
Ward & Oliva
708 Third Ave.
New York, NY 10017

In re Application of
Scott Evans
Application No. 09/267,840
Filed: March 12, 1999
For: SYSTEM AND METHOD FOR DEBT PRESENTATIUON AND RESOLUTION

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's communication, filed in the United States Patent and Trademark Office on October 21, 2002. This communication is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that the application was held abandoned for failure to file a timely proper response to a Final rejection dated February 22, 2002.

Applicant's petition includes a copy of a Notice of Appeal bearing a Certificate of Mailing date of August 22, 2002. A statement by David M. Hill was received within the petition, which attests to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since a timely response to the Office action was filed, the holding of abandonment is withdrawn and the application is restored to pending status. The application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Notice of Appeal filed with the petition, and then to the Legal Instruments Examiner for prompt action on the subsequently file CPA request.

Steven N. Meyers, Special Program Examiner
Patent Technology Center 3600
Telephone No.: (703) 308-3868
Facsimile No.: (703) 605-0586

SM: 12/24/02

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JOHN F WOOD
WARD & OLIVA
708 THIRD AVE
NEW YORK NY 10017

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
SCOTT EVANS	:	
Application No. 09/267,840	:	DECISION ON PETITION
Filed: 03-12-1999	:	
Attorney Docket No. EVA-001	:	

This is a decision on the petition under 37 CFR 1.181, filed June 5, 2007, to withdraw the holding of abandonment.

On June 29, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely reply, the Office mailed a Notice of Abandonment on January 12, 2007.

In the present petition, applicant requested that the Office withdraw the holding of abandonment as stated in the Notice of Abandonment mailed January 12, 2007. Applicant averred that the Office issued the Notice of Abandonment in error because applicant filed a timely and proper reply to the final Office action of January 3, 2007 (certificate of mailing December 29, 2006). Applicant asserted that he filed a Notice of Appeal and a request for an extension of time for response within the third month, accompanied by a certificate of mailing dated December 29, 2006. In support of the assertion, applicant provided a copy of the return, date-stamped postcard acknowledging receipt of a Transmittal; Notice of Appeal; a Request for Reconsideration; a Petition for Extension of Time; and a check in the amount of $760.00 fee in the USPTO on January 3, 2007. Copies of these documents accompanied the petition.

Upon a review of the record, applicant has established that he submitted a timely reply to the final Office action in the form of a Notice of Appeal and a three-month extension of time on January 3, 2007 (certificate of mailing December 29, 2006). Therefore, the two-month extendable period to file an appeal brief in compliance with 37 CFR 41.37, accompanied by the fee, began to run from January 3, 2007, the date of filing the notice of appeal. The Office notes that "37 CFR 41.37(a) does not permit the brief to be filed within the time allowed for reply to the action from which the appeal was taken even if such time is later." *MPEP 1205*. "Once appellant timely files a notice of appeal in compliance

with 37 CFR 41.31, the time period for reply set forth in the last Office action is tolled and is no longer relevant for the time period for filing an appeal brief." *Id.* Therefore, applicant was required to submit an appeal brief on or before March 3, 2007 (or June 3, 2007, accompanied by a request for an extension of time for response within the fifth month and fee). In other words, applicant, himself, started the running of the two-month extendable period to file an appeal brief based upon the date applicant submitted the Notice of Appeal with the USPTO. Unfortunately, the record reveals that applicant has not filed an appeal brief to date.

As no timely appeal brief was received in the USPTO, the application was properly held abandoned. Accordingly, the petition is **dismissed.** The application will remain in its abandoned state until applicant files a petition to revive the application, accompanied by an appropriate reply and the petition 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 FAX: (571) 273-8300
Attn: Office of Petitions

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

Telephone inquiries related to this decision should 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

JOHN F WOOD
WARD & OLIVA
708 THIRD AVE
NEW YORK NY 10017

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SEP 05 2007
OFFICE OF PETITIONS

In re Application of SCOTT EVANS Application No. 09/267,840 Filed: 03-12-1999 Attorney Docket No. EVA-001	: : : : :	DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181, filed August 6, 2007 (certificate of mailing dated August 3, 2007), to withdraw the holding of abandonment.

On June 29, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely reply, the Office mailed a Notice of Abandonment on January 12, 2007.

Applicant requested that the Office withdraw the holding of abandonment as stated in the Notice of Abandonment mailed January 12, 2007. Applicant averred that the Office issued the Notice of Abandonment in error because applicant filed a timely and proper reply to the final Office action of January 3, 2007 (certificate of mailing December 29, 2006). Applicant asserted that he filed a Notice of Appeal and a request for an extension of time for response within the third month, accompanied by a certificate of mailing dated December 29, 2006. In support of the assertion, applicant provided a copy of the return, date-stamped postcard acknowledging receipt of a Transmittal; Notice of Appeal; a Request for Reconsideration; a Petition for Extension of Time; and a check in the amount of $760.00 fee in the USPTO on January 3, 2007. Copies of these documents accompanied the petition.

Upon a review of the record, applicant has established that he submitted a timely reply to the final Office action in the form of a Notice of Appeal and a three-month extension of time on January 3, 2007 (certificate of mailing December 29, 2006). Therefore, the two-month extendable period to file an appeal brief in compliance with 37 CFR 41.37, accompanied by the fee, began to run from January 3, 2007, the date of filing the notice of appeal. Accordingly, applicant was required to submit an appeal brief or other appropriate response on or before March 3, 2007 (or August 3, 2007, accompanied by a request for an extension of time for response within the fifth month and fee).

With the present renewed petition, applicant submitted a timely request for continued examination, a request for an extension of time for response within the fifth month, and the requisite fees. In view thereof, the petition is **granted**. The Office mailed the Notice of Abandonment in error. Accordingly, the holding of abandonment is withdrawn and the application is restored to pending status in light of the timely submission of the reply.

This application is being referred to Technology Center AU 3627 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously filed submission in accordance with 37 CFR 1.114.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

Paper No. 21

WILLIAM E. MAYCOCK
KIMBERLY-CLARK CORPORATION
401 NORTH LAKE STREET
NEENAH, WI 54956

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NOV 2 7 2002

OFFICE OF PETITIONS

In re Application of :
Leonid A. Turkevich et al :
Application No. 09/267,973 : ON PETITION
Filed: March 12, 1999 :
Attorney Docket No. 12,161.2 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 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 October 12, 2001, which set a shortened statutory period for reply of three (3) months. One month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 13, 2002.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on October 15, 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 1700 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
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 28

Kimberly-Clark Worldwide
Patent Department
401 North Lake Street
Neenah, WI 54956

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SEP 12 2003

OFFICE OF PETITIONS

In re Application of :
Leonid Anthony Turkevich et al. :
Application No. 09/267,973 :
Filed: March 12, 1999 :
Attorney Docket No. 12161.2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 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 non-final Office action mailed January 14, 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 April 15, 2003.

The application file is being forwarded to Technology Center AU 1774.

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

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)
6,259,404	2001-07-10	09/268,179	1999-03-15	1978.1001-005

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 J. Thibodeau Jr. Reg. No. 31671/	Date (YYYY-MM-DD)	2009-10-19
Name	David J. Thibodeau, Jr.	Registration Number	31671

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6259404
Issue Date: July 10,2001
Application No. 09268179
Filed: March 15,1999
Attorney Docket No. SIG95-01A

:
: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.

DO NOT S. 'ease forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1-9-06

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/268609 Patent No.: 6475159

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

Please check Inventors

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

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

DO NOT S. 'ease forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-9-06

TO SPE OF : ART UNIT 3736

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/268609 Patent No.: 6475159

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

Please check Inventors

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

E Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 19

Stephen J. Davids
1-880 AV CASOT
Quebec (Que), Canada
G1S 2X9

COPY MAILED

DEC 17 2002

OFFICE OF PETITIONS

In re Application of
Stephen J. Davids et al.
Application No. 09/268,635
Filed: March 16, 1999
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failiure to reply in a timely manner to the Notice of Non-Response mailed May 10, 2002, which set a reply period of One Month or Thirty Days, whichever is longer from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 11, 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 1761 for further processing

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
Miwako Doi, et al.
Application No. 09/268,656
Filed: March 16, 1999
For: **INFORMATION INPUT APPARATUS, INFORMATION INPUT METHOD, AND RECORDING MEDIUM**

Decision on Petition

This is a decision on the petition filed March 7, 2005, pursuant to 37 C.F.R. §1.181.

The March 7, 2005 petition request that the Information Disclosure Statement (IDS), filed on November 24, 2004, be considered and acknowledged.

The petition is **Granted**.

Although the record does not reveal a communication from the examiner regarding consideration of the references cited, the attached initialed copy of the form 1449 which lists the references provided by applicant on November 24, 2004, is evidence that the art has been considered.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

Attachment: Initialed copy of form 1449 submitted by applicant on November 24, 2004.

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
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APR 26 2002

#14

HERBERT B. KEIL
KEIL & WEINKAUF
1101 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036

In re Application of	:
Stephen Kothrade et al	:
Serial No.: 09/268,719	: PETITION DECISION
Filed: March 17, 1999	:
Attorney Docket No.: 48880	:

This is in response to applicants' petition under 37 CFR 1.144, filed December 1, 2000, requesting withdrawal of an improper restriction requirement. The delay in acting on this petition is regretted.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on March 17, 1999. The application, as filed, contained claims 1-11. The examiner mailed a first Office action to applicants on July 10, 2000, setting forth a restriction requirement in the form of an election of species based on claims 2-4 which claim a plurality of polymer species and requiring election of a species from components a) and b).

Applicants replied on July 31, 2000, by amending all claims and adding claims 12-23. Applicants also elected appropriate species and argued the restriction/election of species requirement as improper as there is no lack of unity.

The examiner mailed a new Office action to applicants on November 7, 2000, maintaining the election of species requirement as proper and making it Final. In view of the added claims a restriction requirement was set forth as follows:

> Group I - claims 1-10, drawn to a process of making (a dosage unit);
> Group II - claims 11-21 drawn to a composition.

The examiner maintained that the two Groups are separate and distinct as product and process made and provided appropriate reasoning. An election of species with respect to claims 10 and 23 was also set forth..

Applicants replied on December 1, 2000, by electing the process of making and suggesting that Group I should also include claims 12-13. Applicants further traversed the requirement.

The examiner mailed a Notice of Incomplete Reply to applicants on February 27, 2001, indicating that applicants failed to make an election of species within elected claim 10, as required. Applicants replied with a proper election on March 19, 2001.

The examiner mailed an Office action to applicants on July 5, 2001, rejecting claims 1-10 and 12-13 under 35 U.S.C. 102(b). The examiner maintained and made Final the restriction and election of species requirements and indicated that the petition filed December 1, 2000, would be forwarded for consideration. However, this was not done.

Applicants replied on January 2, 2002, continuing the traverse of the restriction requirement and responding to the rejections of record.

DISCUSSION

Applicants' petition was filed prior to the last Office action and relates to the initial restriction requirement as well as the added requirement set forth after addition of claims 11-23. Applicants' traversal of the requirement relates, therefor, to the election of species requirement initially set forth with regard to claims 2-4. (It is noted that claims 2-4 all depend from claim 1, directly or indirectly. Thus claim 1 should have been included in the requirement.) Applicants argue that the examiner has not followed the guidelines of M.P.E.P. 806.01-806.03. Court decisions are cited which use the term "unity of intention" and it is argued that the claims herein relate to a single invention and no species election should be required.. Applicants also refer to M.P.E.P. 803.02 which relates to election of species procedures.

Applicants' arguments have been carefully considered. A review of claim 1 (as amended - claims 1 and 2 were combined into a single claim and claim 2 cancelled), especially, shows that it directed to a) a variety of water-swellable graft copolymers made from a variety of different polymers reacted with b) an oxygen containing base copolymer and optionally a third polymer. The various polymers which are included in part a) of claim 1 constitute a proper Markush group which can be subject to an election of species requirement. M.P.E.P. 803.02 provides that after an election of species requirement, the examiner will conduct the examination of the application on the basis of the elected species. If the elected species is found patentable over the prior art, the examiner will expand the search to additional species, within reason, to determine if the additional species are patentable or not. If no prior art is discovered which renders the expanded species grouping upatentable the application will be allowed. In this particular instance, the examiner has found the elected species unpatentable over prior art and has not expanded the examination beyond the elected species. No error is seen in the examiner's election of species requirement.

Applicants offer scant argument of the restriction requirement between product and process of making the product. In any event, this requirement is found to be proper also.

DECISION

Applicants' petition with respect to withdrawal of the restriction or election of species requirement is **DENIED** for the reason set forth above..

The application will be forwarded to the examiner for consideration of applicants' reply to the last Office action following mailing of this decision.

Any request for reconsideration or review of this decision must be by way of a renewed petition and must be filed within TWO MONTHS of the mailing date of this decision in order to be considered timely.

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

John Doll
Director, Technology Center 1600

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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AUG 12 2002

#18

HERBERT B. KEIL
KEIL & WEINKAUF
1101 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036

In re Application of
Stephen Kothrade et al
Serial No.: 09/268,719
Filed: March 17, 1999
Attorney Docket No.: 48880

: PETITION DECISION

This is in response to applicants' second petition under 37 CFR 1.144, filed June 28, 2002, requesting modification of the previous petition decision mailed April 26, 2002.

DISCUSSION

Applicants' previous petition addressed the finality of an election of species requirement. Subsequent to the election of species requirement a restriction under 35 U.S.C. 121 was also made, but had not been made Final. The previous decision noted that scant argument for reversal of the examiner's position with respect tot he restriction requirement had been made, other than to note it in applicants' remarks. The petition decision thus was in error in affirming the examiner's decision without benefit of the examiner's reconsideration of the requirement.

DECISION

Applicant's petition with respect to modification of the previous petition decision is **GRANTED**.

Applicants are permitted to traverse the restriction requirement before the examiner and the examiner will respond to the traversal in the next Office action.The application will be forwarded to the examiner for consideration of applicants' reply to the last Office action following mailing of this decision.

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

John Doll
Director, Technology Center 1600

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

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Office of Director
Technology Center 1600

#7

AUDLEY A CIAMPORCERO JR
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK , NJ 08933-7003

In re Application of :
Steve Edwards et al :
Serial No.: 09/268,796 : WITHDRAWAL OF ABANDONMENT
Filed: March 16, 1999 :
Attorney Docket No.: KDK-0547 :

This is in response to applicants' petition under.37 CFR 1.181, filed June 8, 2000, requesting withdrawal of the holding of abandonment based on the filing of a timely response to the Office action mailed September 13, 1999.

A review of the file history shows that the examiner mailed an Office action to applicants on September 13, 1999, setting a three month shortened statutory time period for reply. On April 10, 2000, the examiner mailed a Notice of Abandonment to applicants indicating no response to the Office action had been received..

Applicants state that a reply to the Office action, was filed on March 10, 2000 (Certificate of Mailing Date), as evidenced by the Office date stamped return postcard having a date of March 14, 2000. Applicant provides a copy of the submitted reply with the petition. (The original reply has not been located.) In view of this applicant is considered to have submitted a timely reply.

Applicant's petition is **GRANTED.** The application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for further consideration.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, Washington, DC 20231, or by telephone at (703) 308-3824 or by facsimile transmission at (703) 308-7922.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 28

AUDLEY A. CIAMPORCERO JR.
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

OCT 27 2004

OFFICE OF PETITIONS

In re Application of :
Steve Edwards, et al. :
Application No. 09/268,796 :
Filed: March 16, 1999 :
Attorney Docket No. KDK-0547 :

ON PETITION

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

The petition is **GRANTED.**

The 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 in a timely manner to the final Office action mailed January 2, 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 application became abandoned at midnight on April 2, 2003.

Receipt is acknowledged of the Amendment filed September 2, 2004, with the instant petition.

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

The application file is being forwarded to Technology Center 1600, Art Unit 1641 for further processing.

Retta Williams

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

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JJGJR.: 07-06

Paper No: __

AUDLEY A CIAMPORCERO JR
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUL 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Edwards, et al.	:	
Application No. 09/268,796	:	DECISION
Filing Date: 16 March, 1999	:	
Attorney Docket No.: KDK-0547	:	

This is a decision on the petition filed on 12 December, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- in a series of events following a final Office action on 2 January, 2003, with amendments after final and Notice of Appeal (as well as Abandonment entered (18 August, 2003), Petition and Decision to revive (2 September and 27 October, 2004, respectively) and withdrawal of the holding of Abandonment (14 April, 2005), finally Petitioner failed to reply timely and properly to the Advisory action mailed on 10 May, 2005, indicating that the date of abandonment was the later of the expiration of the time set forth on the final Office action or the date of the Advisory action but in no case later than six (6) months after the final Office action (which would have required reply on or before 2 July, 2003);

- in light of the previous withdrawal of the holding of abandonment, however, the application went abandoned by operation of law after midnight 10 May 2005–and, again, it is noted that there were extensive activities in the matter and it was not ignored by Petitioner;

- the Office mailed a Notice of Abandonment on 12 September, 2005;

- on 12 December, 2005, Petitioner filed the instant application (with fee), a reply in the form of and after-final Amendment, which the Examiner has indicated she will enter, and made the statement of unintentional delay–it appears that Petitioner has satisfied the requirements of the regulation.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[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).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of—

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee if the application was filed before 8 June, 1995.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

Further correspondence with respect to this matter should be addressed as follows:[8]

The instant application is released to Technology Center 1600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. Faxes sent to the old number no longer are routed to the new number. The number (571) 273-8300 is the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

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

OCT 19 2001

#9

In re Application of	:	
Lydia J. Dobler et al	:	NOTICE OF WITHDRAWAL
Serial No. 09/268,930	:	FROM ISSUE
Filed: March 16, 1999	:	UNDER 37 CFR 1.313(b)
For: QUICK ACTING TOXIC	:	
AMMONIA TEST FOR	:	
AQUEOUS SAMPLES	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.31.

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Jill Warden at (703) 308-4037.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard V. Fisher

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

Barnes & Thornburg
11 South Meridian Street
Indiananpolis, IN 46204

SMf 0125/01
67214

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WASHINGTON, DC 20231
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OCT 19 2001

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FEB 03 2005
PATENT & TRADEMARK OFFICE

OCT 25 2001

In re Application of	:	
Lydia J. Dobler et al	:	NOTICE OF WITHDRAWAL
Serial No. 09/268,930	:	FROM ISSUE
Filed: March 16, 1999	:	UNDER 37 CFR 1.313(b)
For: QUICK ACTING TOXIC	:	
AMMONIA TEST FOR	:	
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Telephone inquiries should be directed to Jill Warden at (703) 308-4037.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Richard V. Fisher

Richard V. Fisher, Director
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VENABLE, LLP
P.O. BOX 34385
WASHINGTON, DC 20045-9998

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Bernd Heublein, et. al.	:	
Application No. 09/269,084	:	ON PETITION
Filed: November 29, 1999	:	
Attorney Docket No. 5123-107US	:	

This is a decision on the petition under 37 CFR 1.181, filed February 11, 2005, to withdraw the holding of abandonment, which is being treated as a petition under 37 CFR 1.137(b) to revive the above application.

A review of the record shows that petitioner submitted $665 for a four month extension of time and $395 for a Request for Continued Examination on October 5, 2004. However, effective October 1, 2004, the fee for a four month extension of time was increased to $765, which left a fee deficiency of $100. Therefore, this application became abandoned after midnight June 5, 2004.

Since the four month Extension of time was insufficient, the Request for Continued Examination filed October 5, 2004 is considered as untimely; and therefore, the petition under 37 CFR 1.137(b) and $750 petition fee are necessary for revival of the instant application.

In view of the above, the petition under 37 CFR 1.137(b) is **GRANTED**.

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

This application is being referred to Technology Center Art Unit 1616 for further processing.

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

cc: Gary L. Shaffer, Esq. LLC
901 Banks Place
Alexandria, VA 22312-5507

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEEN FLOOR
IRVINE, CA 92614

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
James Paul Demers	:	
Application No. 09/269,092	:	ON PETITION
Filed: March 18, 1999	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 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 April 8, 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 application became abandoned on July 9, 2003.

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

The application matter is being referred to Technology Center 1600, Art Unit 1639 for further processing.

Retta Williams

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

JUN 05 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Martin A. Farber
866 United Nations Plaza
Suite 473
New York, NY 10017

In re Application of HOPF et al
U.S. Application No.: 09/269,148
Int. Application No.: PCT/EP97/02086
Int. Filing Date: 24 April 1997
Priority Date: 12 September 1996
Attorney Docket No.: 3438 US
For: METHOD FOR THE DETERMINATION OF COMBUSTION MISFIRES

DECISION ON PETITION

This is in response to applicants' "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action Under MPEP 711.03(c) II" filed 29 January 2001.

BACKGROUND

On 24 April 1997, applicants filed international application PCT/EP97/02086, which claimed priority of an earlier Germany application filed 12 September 1996. A copy of the international application was communicated to the USPTO from the International Bureau on 19 March 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 29 January 1998, 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 12 March 1999.

On 12 March 1999, applicants filed national stage papers in the United States. The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 November 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) along with a Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917), indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 must be filed along with a surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty (30) months from the priority date.

On 03 October 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the present application is abandoned based on applicants' failure to respond to the Notification of Missing Requirements mailed 08 November 1999.

On 29 January 2001, applicants filed the present petition. The petition states that the Notification of Missing Requirements was not received by applicants' representative and that a search of the application file jacket and docket records indicates that the Notification of Missing Requirements was not received. The petition further states that it is accompanied by a copy of a docket record where the Notification of Missing Requirements would have been entered had it been received and docketed.

DISCUSSION

According to the Official Gazette at 1156 OG 53 and MPEP 711.03(c), a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include: (1) a statement by the practitioner that the Office communication was not received by the practitioner, (2) a statement by the practitioner that he searched the application file jacket and docket records and that the search 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.

With regard to item (1) above, applicants' representative has provided the required statement.

With regard to item (2) above, applicants' representative has provided the required statement.

With regard to item (3) above, in order to satisfy the evidentiary requirements necessary for a withdrawal of the holding of abandonment, applicants should furnish a docket record listing the responses due to the USPTO on 08 December 1999 for all cases handled by the representative's firm. In the present case, the petition states that the submitted copy of the attorney's office docket record reflects "all due date docket entries". The copy of the docket record shows no entry for a response due to a Notification of Missing Requirements on 08 December 1999.

CONCLUSION

For the reasons above, the petition to withdraw the holding of abandonment is GRANTED.

Accordingly, the holding of abandonment in the present application is hereby WITHDRAWN and the Notification of Abandonment mailed 03 October 2000 is hereby VACATED.

The application will be forwarded to the DO/EO/US for processing in accordance with this decision. Copies of the Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) and the Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917), which were originally mailed on 08 November 1999, are attached to this decision. Applicants are required to respond to the Notification of Missing Requirements within ONE (1) MONTH from the mailing date of this decision. Extensions of time are available under 37 CFR 1.136(a).

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Richard Cole
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 8

Steven B. Pokotilow
STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, New York 10038-4982

MAIL

MAR 1 8 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:	)	
Stephen S. MILLER, et al.	)	
Application No. 09/269,587	)	**DECISION ON REQUESTS FOR**
Filed: March 29, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: APPARATUS AND METHOD FOR	)	
EFFECTING CORRESPONDENT	)	
CENTRIC ELECTRONIC MAIL	)	

This is a decision on the Requests To Withdraw from Representation filed November 30, 2001 and supplemented by the statement submitted on February 28, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

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.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Electronic Commerce
(703) 305-9750

cc: Joseph Levi
1576 East 21st Street
Brooklyn, New York 11210

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 14

RICHARD W. WARD
63 COLLEGE AVENUE
ARLINGTON, MA 02474

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OCT 2 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Stephen S. Miller et al	:	
Application No. 09/269,587	:	ON PETITION
Filed: December 6, 1999	:	
Attorney Docket No. ARCH1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 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 October 15, 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 16, 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 AU 2152.

Wan Laymon

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

3 1 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph T. Leone
Dewitt Ross & Stevens S.C.
800 Excelsior Drive, Suite 401
Madison, WI 53717-1914

In re Application of	:	
Alan EBRINGER	:	DECISION ON PETITION
Application No.: 09/269,607	:	
PCT No.: PCT/GB97/02667	:	UNDER 37 CFR 1.182
Int. Filing Date: 29 September 1997	:	
Priority Date: 27 September 1996	:	
Attorney Docket No.:78104.038	:	
For: DIAGNOSIS OF SPONGIFORM DISEASE	:	

This decision is in response to a PETITION UNDER 37 CFR 1.182 TO REPLACE DEFECTIVE DOCUMENTS filed by facsimile on 20 February 2003 which requests that the originally filed transmittal letter and declaration be replaced with newly submitted documents which correctly identify the international application number.

BACKGROUND

On 29 September 1997, applicant filed international application PCT/GB97/02667, which claimed priority of an earlier application filed 27 September 1996. A Demand for international preliminary examination, in which the United States was elected, was filed 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 of America expired at midnight on 29 March 1999 (27 March 1999 being a Saturday).

On 26 March 1999, applicant filed a Transmittal Letter for entry into the national stage in the United States of America. Filed with the Transmittal Letter was, *inter alia*, the requisite basic national fee. No oath or declaration accompanied the Transmittal Letter. The transmittal letter indicating a filing under 35 U.S.C. 371 of international application PCT/GB97/02267.

On 26 May 1999, the United States Designated/Elected Office (DO/EO/US) mailed 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). The Notification indicated

that an oath or declaration in compliance with 37 C.F.R. 1.497(a) and (b) must be submitted within one month of its 26 May 1999 date of mailing or by 31 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. The Notification further indicated that the surcharge under 37 C.F.R. 1.492(e) was required.

On 26 July 1999, applicant filed an executed declaration and the surcharge under 37 CFR 1.492(e). The declaration identified the international application as PCT/GB97/02267.

On 05 August 1999, the DO/EO/US mailed 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 under 35 U.S.C. 371 of 26 July 1999.

On 20 February 2003, applicant submitted the instant petition requesting that a supplemental declaration and transmittal letter, each of which now correctly identifies the international application number, be accepted.

DISCUSSION

A review of the file clearly indicates that the transmittal letter filed 26 March 1999 and the declaration filed 26 July 1999 incorrectly identify the international application number as PCT/GB97/02267, as opposed to PCT/GB97/02667. Both the transmittal letter and the declaration indicate the title of the invention as "Diagnosis of Spongiform Disease", the international filing date as 29 September 1997, and the applicant as Alan Ebringer, all of which is consistent with international application number PCT/GB97/02667. Further, the submission was accompanied by a copy of international application number PCT/GB97/02667.

In view of such, both the transmittal letter and the declaration were defective and the Notification Of Acceptance was mailed in error.

However, applicant's petition under 37 CFR 1.182 and the submission of a corrected transmittal letter and declaration are effective to correct the defects.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is **GRANTED**.

In view of the above, the "Notification Of Acceptance Of Application Under 35 U.S.C. 371 And 37 CFR 1.494 Or 1.495" (Form PCT/DO/EO/903) mailed 05 August 1999 is hereby **VACATED**.

The application is being returned to the DO/EO/US for processing of the executed declaration filed 20 February 2003 including the issuance of a corrected Form PCT/DO/EO/903 indicating a date under 35 U.S.C. 371 of 20 February 2003.

Thereafter, the application will be returned to Technology Center 1600 for continued examination.

Michael A. Neas
PCT Special Program Examiner
Office of PCT Legal Administration

Richard Cole
PCT Legal Examiner
Office of PCT Legal Administration

Telephone: (703) 308-0954
Facsimile: (703) 308-6459

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Paper No. 26

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CLEVELAND, OH 44115

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APR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Billingsley, Richard
Application No. 09/269,618
Filed: July 21, 1999
Attorney Docket No. DYOUP0185US

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 25, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed June 18, 2003. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on November 19, 2003. A Notice of Abandonment was mailed on February 24, 2004.

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 3600 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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6267661	2001-07-31	09269716	1999-08-03	4952/0183PUS1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joe McKinney Muncy/	Date (YYYY-MM-DD)	2010-05-19
Name	Joe McKinney Muncy	Registration Number	32334

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6267661
Issue Date: July 31,2001
Application No. 09269716
Filed: August 3,1999
Attorney Docket No. 4952/0183PUS1

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

This is a decision on the electronic petition, filed May 19,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 19,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6224323	2001-05-01	09269739	1999-04-06	ID 015607

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2007-04-12
Name	David J. Cushing	Registration Number	28703

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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In re Patent No. 6224323
Issue Date: May 1,2001
Application No. 09269739
Filed: April 6,1999
Attorney Docket No. 99063

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

This is a decision on the electronic petition, filed April 12,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 12,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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RANKIN HILL PORTER & CLARK
925 EUCLID AVENUE
SUITE 700
CLEVELAND OH 44115-1405

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FEB 0 2 2006

OFFICE OF PETITIONS

In re Patent No.6,852,700	:	
Issue Date: February 8, 2005	:	
Application No. 09/269,845	:	ON PETITION
Filed: September 24, 1999	:	
Attorney Docket No. AAT-11612	:	

This is a decision on the petition filed May 2, 2005, under 37 CFR 1.183, which is being treated as a petition 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 Dismissed.

Petitioner seeks to have a Certificate of Correction issued in the name of **Ludwik Hirszfeld Institute of Immunology and Experimental Therapy Polish Academy of Sciences, Wroclaw (PL); Georgiades Biotech Limited, Roadtown, Tortola (VG).** 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of the assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but *prior to issuance of a patent.* PTO assignment records disclose that this patent issued in the name of **Ludwig Hirzfeld Institute of Immunology and Experimental Therapy, Polish Academy of Sciences, Warsaw (PL).** As such, issuance of a Certificate of Correction would not be proper at this time. *However, a Certificate of Correction would be proper in the assignee's name as recorded on September 24, 1999, Reel/Frame No. 010709/0125*, as **LUDWICK HIRSZFELD INSTITUTE OF IMMUNOLOGY AND EXPERIMENTAL THERAPY POLISH ACADEMY OF SCIENCES OF WROCLAW, POLAND** and **GEORGIADES BIOTECH LIMITED,** Roadtown, Tortola, British Virgin Islands

This matter is being referred to the Files Repository.

---

[1]See Official Gazette of June 22, 2004

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW LLP
2 EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Waltraud ANKENBAUER et al :
Application No. 09/269,860 : DECISION ON PETITION
Filed: March 10, 2000 :
Attorney Docket No. :
022101-000700US

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 2006, 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.

This application became abandoned for failure to timely pay the issue fee and to submit corrected drawings on or before April 9, 2002, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed January 9, 2002. Accordingly, the date of abandonment of this application is April 10, 2002. A Notice of Abandonment was mailed on May 16, 2002 to the attorney of record at the time; namely, Douglas A. Petry.

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 Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3).

As to item (1), while the issue fee payment in the amount of $1,400 has been received, the drawings required by the Notice of Allowability have not. Accordingly, drawings overcoming the objections set out in the Notice of Allowability are required to revive this application.

Turning next to item (3) above, there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

> (1) the delay in reply that originally resulted in the abandonment;
>
> (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
>
> (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

<u>As to Period (1):</u>

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. <u>See</u> H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 4 and a half years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 9, 2002. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Douglas A. Petry (along with Dennis P. Tramaloni and Joseph P. Kirk, Jr.) was counsel of record at the time of abandonment, Mr. Petry should explain why this application became abandoned while it was under his control and what efforts Mr. Petry made to further reply of itself and with whom this matter was discussed outside of the law firm. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Mr. Petry and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at the firm of Mr. Petry, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an

adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over four and a half years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d

1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at the firm of Mr. Petry and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may 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.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND CREW, LLP
2 EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Waltraud Ankenbauer et al. :
Application No. 09/269,860 :
Filed: March 10, 2000 :
Attorney Docket No. 022101-000700US :

ON PETITION

This is a decision on the Renewed petition under 37 CFR 1.137(b), filed January 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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 Fee(s) Due and the Notice of Allowability mailed January 9, 2002, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on April 10, 2002.

The petition decision mailed September 18, 2007 dismissed the petition filed November 10, 2006 noting that the requirements of 37 CFR 1.137(b)(1) and (3) were lacking. Specifically item (1) was lacking because the required corrected drawings were not provided and item (3) was lacking due to the fact that the delay in filing the reply that resulted in abandonment and the delay in filing a grantable petition had not been shown to the satisfaction of the Director to be unintentional.

The instant renewed petition includes corrected drawings and an explanation in the delay in filing the reply that resulted in abandonment and the delay in filing a grantable petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and corrected drawings ; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment and corrected drawings are accepted as having been unintentionally delayed.

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

The application file is being referred to the Office of Data Management.

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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GEOQUEST
SCHLUMBERGER TECHNOLOGY CORPORATION
5599 SAN FELIPE
SUITE 1700
HOUSTON, TX 77056-2722

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of :
Thomas R. Miller :
Application No. 09/270,128 : ON PETITION
Filed: March 16, 1999 :
Attorney Docket No. 94.0016 :
:

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 13 2005. A Notice of Abandonment was mailed on June 20, 2006. In response, on January 9, 2007, the present petition was filed.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $790 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

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. Since, no extension of time fees are due on a petition for revival, the

$1,020 extension fees paid with the present petition are being credited to counsel's deposit account.

This application is being referred to Technology Center AU 2123 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Paper No. 6

JOHN R VAN AMSTERDAM
WOLF GREENFIELD & SACKS
600 ATLANTIC AVENUE
BOSTON , MA 02210

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JUN 0 4 2001

OFFICE OF PETITIONS

In re Application of:
AHOTUPA, MARKKU
Application No. 09/270,480
Filed: 03/15/1999
Attorney Docket No. O0013/7075

ON PETITION

This is a decision on the June 21, 2000 request to withdraw the holding of abandonment.

FACTS

This application became abandoned for failure to timely file a proper reply to the notice to file missing parts mailed on April 6, 1999. A shortened statutory period of two (2) months was set for replying. No reply was received within that time. Therefore, the deadline for replying passed on June 6, 1999 and the application lapsed into an abandoned state as of the following day, June 7, 1999.[1]

Petitioner allegedly filed this petition under 37 C.F.R. §1.137(a) on April 7, 2000. However, this petition was not received. Therefore, it was resubmitted via facsimile on June 21, 2000. The petition alleges that his delay was unavoidable because he never received the April 6, 1999 notice to file missing parts.

The showing required to establish nonreceipt of an office action is discussed in M.P.E.P. 711.03(c)II.

> "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. 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 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).

[1] *See* 35 U.S.C. §133 and 37 C.F.R. §1.134-136

> 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."

Although Petitioner has substantially complied with the above-cited reference, Petitioner's docket record indicates that a paper regarding this application was received from the United States Patent and Trademark Office on April 9, 1999. However, it is difficult for the Commissioner to interpret just what that mailing was. In light of the ambiguity, *this petition is* ***dismissed***.

The Commissioner suggests clarification of how to interpret the docket record submitted so that the nature of that mailing can be determined.

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 C.F.R. §1.136(a) are permitted.[2] The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)". This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Applicant is alternatively encouraged to consider filing a petition under 37 C.F.R. §1.137(b) to revive an application unintentionally abandoned. That rule provides that where the delay in replying was unintentional, a petition may be filed to revive the application or lapsed patent, which will be grantable if accompanied by:

> (1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may ne 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 as set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

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

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

See 37 C.F.R. §1.137(d).

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

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

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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

Paper No. 9

JOHN R VAN AMSTERDAM
WOLF GREENFIELD & SACKS
600 ATLANTIC AVENUE
BOSTON , MA 02210

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SEP 4 2001

OFFICE OF PETITIONS

ON PETITION

In re Application of:
AHOTUPA, MARKKU
Application No. 09/270,480
Filed: 03/15/1999
Attorney Docket No. O0013/7075

This is a decision on the August 8, 2001 request for reconsideration regarding the abandonment of this U. S. Patent application.

This application became abandoned for failure to timely file a proper reply to the notice to file missing parts mailed on April 6, 1999. A shortened statutory period of two (2) months was set for replying. No reply was received within that time. Therefore, the deadline for replying passed on June 6, 1999 and the application lapsed into an abandoned state as of the following day, June 7, 1999.[1]

Petitioner allegedly filed this petition under 37 C.F.R. §1.137(a) on April 7, 2000. However, this petition was not received. Therefore, it was resubmitted via facsimile on June 21, 2000. The petition alleges that his delay was unavoidable because he never received the April 6, 1999 notice to file missing parts. However, due to ambiguity in the evidence presented, that petition was dismissed. A period of two months was given to respond.

Petitioner filed this petition on August 6, 2001, which, coupled with a properly executed certificate of mailing, was timely under 37 C.F.R. §1.7 and §1.8.

This petition is supported with an explanation of Petitioner's docketing system that sufficiently clarifies the record. Accordingly, *this petition is* ***granted***.

The notice of abandonment mailed on May 11, 2000 is hereby vacated. This file will be returned to Technology Center 1600 for further examination.

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

Scott M. Ledford
Petitions Attorney
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

[1] See 35 U.S.C. §133 and 37 C.F.R. §1.134-136

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. 17

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

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OCT 1 4 2003

OFFICE OF PETITIONS

In re Application of
Takahisa Ueda
Application No. 09/270,673
Filed: March 16, 1999
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2003, to revive the above-identified application.

The petition is **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 19, 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 20, 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.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on October 3, 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 1772 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

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

OCT -9 2002

Paper No. 35

In re Application of
Daniel David Young *et al*
Application No. 09/270,688
Filed: March 16, 1999
Attorney Docket No. Patent 742407-4

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on October 2, 2002 by which petitioners request a one month extension of time to file a reply brief in response to the examiner's answer dated August 2, 2002. No fee is required for the petition.

The petition is granted.

Pursuant to 37 CFR 1.193(b)(1), a request for an extension of time to file a reply brief is governed by 37 CFR 1.136(b). See also § MPEP 1208.03. A review of the instant petition shows that it was timely filed, and sets forth adequate justification for the request.

Accordingly, the period for filing a reply brief in response to the examiner's answer is extended to run through November 2, 2002. Petitioners may expect that any subsequent request for an extension of time to file a reply brief will not be granted absent a presentation of extraordinary circumstances warranting the requested extension.

PETITION GRANTED.

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

SIXBEY, FRIEDMAN, LEEDOM & FERGUSON
8180 GREENSBORO DRIVE SUITE 800
McLEAN, VA 22102

UNITED STATES 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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JAN - 4 2005

Paper No. 19

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
Shinichi Hagiwara
Application No. 09/270,844
Filed: March 18, 1999
For: **APPARATUS FOR DISPLAYING IMAGES RECORDED BY CAMERA**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw Abandonment filed May 14, 2004, pursuant to MPEP §711.03(c) and 37 C.F.R. § 1.181, as supplemented on December 3, 2004. No fee is required.

This application became abandoned due to failure to timely file a response to the final Office action mailed June 27, 2003. A Notice of Abandonment was mailed April 16, 2004.

Petitioner asserts that the final Office action mailed June 27, 2003 was never received. In support therefore, copies of the docket records have been included to corroborate petitioner's claim. The supplement to the petition contains a statement from the practitioner of record, attesting to a personal search of the file jacket and docket records.

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 in the petition filed May 14, 2004 as supplemented on December 3, 2004.

Accordingly, the petition is **GRANTED**. The holding of Abandonment is hereby withdrawn.

The application will be forwarded to the Technology Center's technical support staff for re-mailing of the final Office action and restarting the time period for response.

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.

HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Koyama et al.	:	DECISION ON PETITION
Application No. 09/270,953	:	
Filed: March 17, 1999	:	
Atty Docket No. 8373.181US01	:	

This is a decision on the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT filed January 4, 2006, which is properly treated under 37 CFR 1.181.

The petition under § 1.181 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. See 1.181(f).

Alternatively, applicant may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. §1.137(a)" or "Petition under 37 C.F.R. §1.137(b)," as appropriate.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed June 4, 2002 (and re-mailed July 2, 2002). The June 4, 2002 Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). Applicants assert and the record supports a conclusion that the Office action was re-mailed and the period

for reply restarted on July 2, 2002. No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective October 3, 2002. A courtesy Notice of Abandonment was mailed on December 6, 2005.

Petitioner argues that based on the undersigned's information and knowledge, a complete response to the Office Action mailed June 4, 2002 (period for response restarted July 1, 2002) was timely filed on October 22, 2002 with a 1 month extension of time (stated in the fax transmission cover sheet). Petitioner submits copies of the papers maintained to have been transmitted on October 22, 2002. Petitioner further argues that the response was received on October 22, 2002, as PAIR shows that the response was received as the Request for Extension of Time simultaneously filed October 22, 2002 was granted.

Petitioner's arguments and evidence have been reviewed. However, a review of the record confirms that no response was received, as no response is present in the image file wrapper for this application. Petitioner's evidence of receipt by facsimile is not persuasive. The transmission verification report references a time and date of 10/22/01 14:40. As this report is submitted to show that a paper was faxed on 10/22/02 clarification is required. (If clarification is present in the record, please feel free to call the undersigned to direct her attention to the appropriate evidence).

Under the circumstances, the holding of abandonment is proper and will not be withdrawn.

Applicants may seek revival of the application pursuant to the provisions of 37 CFR 1.137.

No fee is required on petition under § 1.181.

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

HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Koyama et al.	:	DECISION ON PETITION
Application No. 09/270,953	:	
Filed: March 17, 1999	:	
Atty Docket No. 8373.181US01	:	

This is a decision on the PETITION UNDER 37 C.F.R. 1.137(b) filed December 4, 2006. Given the arguments on petition, this petition is being treated as a renewed petition under § 1.181.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed June 4, 2002 (and re-mailed July 2, 2002 with the period for reply re-started). A courtesy Notice of Abandonment was mailed on December 6, 2005. By decision mailed October 13, 2006, the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT filed January 4, 2006 was dismissed. The evidence presented was ambiguous, in that, it included a verification report and markings on the papers referencing facsimile transmission on October 22, 2001. Further, the Office entered the papers as received on October 22, 2001. Clarification was requested.

Petitioner again argues that the response was timely filed on October 22, 2002, with a 1-month extension of time (stated in the fax transmission cover sheet). Petitioner also points to the entry in PAIR of the grant of the extension of time on October 22, 2002.

The evidence has been reconsidered and it is concluded that the response was timely filed on October 22, 2002. The verification report and markings referencing October 22, 2001 appear to have confused the matter and led to an entry of October 22, 2001 for the paper. Given the totality of the evidence and the specific reference in the amendment to the Office action mailed July 2, 2002, it is appropriate to consider the amendment timely filed on October 22, 2002. Office records have been corrected to show a date of receipt of these papers on October 22, 2002.

In view thereof, the notice of abandonment mailed December 6, 2005 is hereby VACATED, and the holding of abandonment is hereby WITHDRAWN.

The petition under § 1.181 is GRANTED.

No fee is required on petition under § 1.181.

Since consideration of the petition under § 1.137(b) is unnecessary, the petition fee is being refunded to the Deposit Account, as authorized.

Technology Center AU 2125 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the amendment timely filed October 22, 2002 (and re-supplied on petition filed December 4, 2006).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED

OCT 26 2009

OFFICE OF PETITIONS

In re Patent No. 6,279,507
Issue Date: August 28, 2001
Application No. 09/271,347
Filed: March 17, 1999
Attorney Docket No. 04132.0125.000000

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 7, 2009.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KAREN S. CANADY
CANADY & LORTZ LLP
COMMERCE PLAZA
11340 WEST OLYMPIC BLVD., SUITE 275
LOS ANGELES CA 90064

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NOV 2 1 2007

OFFICE OF PETITIONS

In re Patent No. 6,165,782 :
Issue Date: December 26, 2000 :
Application No. 09/271,365 :
Filed: March 18, 1999 :
Attorney Docket No. CGL6-US-D1 :

NOTICE

This is a notice regarding your request, filed May 16, 2007, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

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APR 28 2006
OFFICE OF PETITIONS

In re Application of :
Cheyer et al. :
Application No. 09/271,614 :
Filed: March 17, 1999 :
Attorney Docket Number: SRI1P018 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed February 10, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed December 6, 2004. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned March 6, 2005. A Notice of Abandonment was mailed on February 2, 2006.

With the instant petition, Applicant has submitted corrected drawings.

This application is being forwarded to Publishing Division for processing into a patent.

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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P.O. BOX 2168
MENLO PARK, CA 94026

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JAN 0 5 2005

OFFICE OF PETITIONS

In re Application of :
Cheyer et al :
Application No. 09/271,617 : NOTICE
Filed: March 17, 1999 :
Attorney Docket No. 59501-8021.USA01

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

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

#10

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/271691	03/18/1999	CRAIG M. CONWAY	5150-30300

JEFFREY C. HOOD
Meyerston, hood, kilvin, Kovert,& goetzel PC
POST OFFICE BOX 398
AUSTIN, TX 78767-0398

EXAMINER	
VINCENT, DAVID ROBERT	
ART UNIT	PAPER NUMBER
2661	10

DATE MAILED: 02/11/04

NOTICE OF RESCINDED ABANDONMENT

☐ In response to your communication filed _____

☒ Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded. ~~The issue fee receipt will be mailed within six weeks.~~

For Manager, Publishing Division
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
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MAILED

APR 11 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO IL 60601

In re Application of
David I. J. Glen
Application No. 09/272,069
Filed: March 18, 1999
For: **METHOD AND APPARATUS FOR CONFIGURABLE GAMMA CORRECTION IN A VIDEO GRAPHICS CIRCUIT**

DECISION ON PETITION

This is a decision on the Petition to Withdraw the Holding of Abandonment filed December 23, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

This application became abandoned for failure to timely reply to a non-final Office action mailed on May 10, 2004. A Notice of Abandonment was mailed on December 17, 2004.

Petitioner alleges to have timely filed a proper response, by facsimile on August 10, 2004. In support, petitioner has provided as evidence, copies of the response, a copy of a facsimile transmittal and a certificate of transmittal.

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]

Although the facsimile transmittal sheet does not reflect the Office's official facsimile number, it has been determined that facsimile number used by applicants was a facsimile number associated with the U.S. Patent and Trademark Office. Therefore, it is concluded that the papers were timely filed via facsimile transmission in compliance with the requirements of 37 CFR 1.8(a)(1).

The certificate of facsimile transmission is also dated for a date after the facsimile transmission. However, given the date established on the facsimile transmittal, the date on the certificate of facsimile transmission will be taken as a typographical error.

Accordingly, Petitioner has complied with the requirements of 37 C.F.R. §1.8(a) above. The petition is **GRANTED**.

The holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for processing the response to the non-final Office action which accompanied the petition. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.

Petitioner is reminded that the Official Facsimile Number for all incoming correspondence to the Office is (703) 872-9306. Petitioner may want to note this number in order to avoid any future correspondence problems.

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. 6288717
Issue Date: September 11,2001
Application No. 09272415
Filed: March 19,1999
Attorney Docket No. 1430.005

:

: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 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 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)
6,288,717	2001-09-11	09/272,415	1999-03-19	1430.005

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Terry Dunkle/	Date (YYYY-MM-DD)	2007-09-07
Name	Terry Dunkle		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

NOTICE RE: CERTIFICATES OF CORRECTION 3746

DATE : 03-13-02

Paper No.: 12

TO : Supervisor, Art Unit 3700

SUBJECT : Certificate of Correction Request in Patent No.: 6210120

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

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

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

THANK YOU FOR YOUR ASSISTANCE!

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

☒ **YES** ☐ **NO** ☐ **Comments below**

☐ **Comments:**

Supervisor

3746

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
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F5 NETWORKS, INC. - PATENTS
JOHN CAMPA
401 ELLIOTT AVE. WEST
SEATTLE WA 98119

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of
Ben-Dor et al.
Application No. 09/272,807
Filed: March 19, 1999

Title of Invention: Tunneling Between A Bus and A Network

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a non-final Office Action which was mailed on October 3, 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 January 4, 2004. A Notice of Abandonment was mailed on October 6, 2004.

An improper Request for Continued Examination (RCE) with the submission requirement has been submitted with the petition to revive. It is noted an RCE is not a proper reply to a non-final Office Action because prosecution in the application was not closed. However review of the record shows that the RCE was accompanied by an amendment. Thus the amendment submitted will be forwarded to the examiner for review.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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

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

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

Nixon Peabody LLP (F5 PATENTS)
Gunnar G. Leinberg
Clinton Square, P.O. Box 31051
Rochester NY 14603-1051

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Avner Ben-Dor et al.	:	
Application No. 09/272,807	:	DECISION GRANTING PETITION
Filed: March 19, 1999	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 812495-130/10.240	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 25, 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 August 23, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed formal drawings.

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 Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 16

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FEB 22 2001

OFFICE OF PETITIONS
A/C PATENTS

Majestic, Parsons, Siebert & Hsue, P.C.
Four Embarcadero Center, Suite 1100
San Francisco, California 94111-4106

In re Application of
John Clark Lagarias
Application No. 09/272,809
Filed: March 19, 1999
Attorney Docket No.: 23070-943

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2001, 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 April 25, 2000, which set a shortened statutory period for reply of three months. No communications responsive to the non-final Office action were received within the allowable period. The application became abandoned on July 26, 2000. A Notice of Abandonment was mailed on November 17, 2000.

The person signing the instant petition requests a change of correspondence address to the address given in the instant petition. There is, however, no indication that the person signing the instant petition has ever been given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of the continuing prosecution application filed January 24, 2001.

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

Telephone inquiries concerning this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.

Christina Y. Tartera for

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

cc: Tom Hunter
Skjerven Morrill MacPherson LLP
25 Metro Drive, Suite 700
San Jose, California 95110

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 17

KEIL & WEINKAUF
1350 CONNECTICUT AVENUE NW
WASHINGTON, DC 20036

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MAR 1 3 2003

OFFICE OF PETITIONS

In re Patent No. 6,255,309 :
Issue Date: July 3, 2001 :
Application No. 09/272,916 :
Filed: March 19, 1999 :
Inventor: Klaus-Juergen Pees et al :
Attorney Docket No. 3335002 :

ON PETITION

This is a decision on the "PETITION FOR LATE ENTRY OF PRIORITY PAPERS AND PETITION FOR SUSPENSION OF RULES UNDER 37 CFR 1.183 AND REQUEST FOR CERTIFICATE OF CORRECTION," filed January 27, 2003. The petitions are being treated as a petition under 37 CFR 1.55(a) to accept a certified copy of the priority application after the patent has been granted and under 37 CFR 1.183 to waive the rules and accept the correction of the priority data on the front page of the above-identified patent.

The petitions considered under 37 CFR 1.55(a) and 37 CFR 1.183 are **dismissed.**

Under the statute (35 U.S.C. § 119) in effect at the time the application was filed, an applicant who wished to secure the right of priority had to comply with certain formal requirements within a time specific. If these requirements were not complied with, the right of priority was lost and cannot thereafter be asserted. Specifically, the requirements of the former statute were (a) that the applicant must file a claim for the right, (b) he or she must also file a certified copy of the original foreign application, and (c) these papers must be filed within a certain time limit. The maximum time limit specified in the statute is that the claim for priority and the priority papers had to be filed before the patent was granted, but the statute gave the Commissioner authority to set this time limit at an earlier time during the pendency of the application. If the required papers were not filed within the time limit set, a petition to accept a delayed claim for priority must be accompanied by (1) the surcharge set forth in 1.17(t) and (2) a statement that the entire delay between the date the claim was due and the date the claim was filed was unintentional. Since the certified copy of the priority document was not, as required by statute, filed in the above identified application until after the patent was granted, the petition to accept the certified copy of the priority document after the patent issued is dismissed.

While the American Inventors Protection Act of 1999 (P.L. 106-113) included specific language in section 4503 that amended 35 U.S.C. § 119, section 4508 specifically provides that those amendments apply only to applications filed I year after enactment; i.e., only to those applications filed on or after November 29, 2000, and, further, provides that the time period specified in 37 CFR 1.55(a)(1)(i) does not apply to an application for a design patent. Therefore, 37 CFR 1.55(a) (effective November 29, 2000) which promulgates those provisions, does not apply to the instant patent, or its application. See 65 *Fed. Reg.* 57024 (Sept. 20, 2000)

With respect to the concurrently filed request for Certificate of Correction, a claim to foreign priority benefits cannot be perfected via a Certificate of Correction if the requirements of 35 U.S.C. § 119 and 37 CFR 1.55 have not been satisfied in the patented application or, if applicable, its parent. See In re Van Esdonk , 187 USPQ 671 (Comm'r. Pat.1975). As such, the request for a Certificate of Correction must also be dismissed. See MPEP 201.16.

However, a reissue was granted in Brenner v. State of Israel , 400 F.2d 789; 158 USPQ 584 (D.C. Cir. 1968), where the only ground urged was applicant's failure to file the certified copy of the original foreign application under 35 U.S.C. § 119 before the patent was granted. Under the circumstances of this case, petitioner may wish to seek relief from his predicament by way of reissue under 35 USC § 251. Id. See also 65 *F.R.* 57024, supra; MPEP §§ 201.16, 1402.

Since a certificate of correction will not be issued, the $130.00 petition fee submitted is unnecessary and will be credited to Deposit Account No. 11-0345, as authorized.

This patented file is being returned to the Files Repository.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GUNNAR G. LEINBERG, ESQ.
NIXON PEABODY LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

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JUL 25 2007
OFFICE OF PETITIONS

In re Application of	:	
Goodwin et al.	:	
Application No. 09/273,238	:	ON PETITION
Filed: March 19, 1999	:	
Attorney Docket No. 812495/150 (10.230)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 20, 2007, 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 non-final Office action mailed November 20, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 21, 2003. A Notice of Abandonment was mailed June 5, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

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

The instant petition lacks item (3). Since the application has been abandoned for an extended period of time, over 4 years, petitioner needs to include a statement of the facts as to the cause of the delay between the date the applicant was first notified that the application was abandoned and the date a 37 CFR 1.137(b) petition was filed, and how such delay was "unintentional."

Petitioner also submitted a Request for Continued Examination (RCE) with the instant petition. Petitioner cannot request continued examination of an application until after prosecution in the application is closed. See 37 CFR 1.114(a). Prosecution in an application is closed if the application is under appeal, or the last Office action is a final action (37 CFR 1.113), a notice of allowance (37 CFR 1.311), or an action that otherwise closes prosecution in the application (e.g., an Office action under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935)). Prosecution in the instant application has not been closed, as the last Office action was non-final. Accordingly, the $790.00 RCE fee will be credited to petitioner's deposit account as authorized.

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

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

By hand: Customer Window located at:

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

---

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

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United States Patent and Trademark Office
P.O. Box 1450
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NIXON PEABODY LLP (F5 PATENTS)
GUNNAR G. LEINBERG
1100 CLINTON SQUARE
ROCHESTER, NY 14604

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JUL 11 2008

OFFICE OF PETITIONS

In re Application of	:	
Goodwin et al.	:	
Application No. 09/273,238	:	ON PETITION
Filed: March 19, 1999	:	
Attorney Docket No. 812495-150/10.230	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed January 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1] It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the 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. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, if petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2663 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

[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).

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ADAMS & WILKS
17 BATTERY PLACE
SUITE 1231
NEW YORK, NY 10004

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Suzuki et al.	:	
Application No. 09/273,286	:	
Filed: March 19, 1999	:	DECISION ON
Attorney Docket Number: KO36-3629	:	PETITION

This is a decision in response to the Petition Under 37 C.F.R. §1.181(a) for Withdrawal of Notice of Abandonment, filed December 8, 2005 (Certificate of Mailing dated December 5, 2005). The delay in treating this petition is regretted.

The petition under 37 CFR § 1.181(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 "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly respond to the Notice of Allowance and issue Fee Due, mailed July 6, 1999. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on October 7, 1999. A Notice of Abandonment was mailed September 10, 1999.

Applicant files the instant petition and asserts that he did not receive the Notice of Allowance or any communication from the PTO concerning this application other than the filing receipt. In support of this assertion, Applicant provides copies of the Master Docket Book and the front face of the application file jacket.

Applicable Law, Rules and MPEP

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). See MPEP 711.03(c).

Analysis

Applicant has received neither the Notice of Allowance nor the Notice of Abandonment. The one communication that was received by Applicant - the filing receipt - has not been entered on the file jacket.

In view of the foregoing, "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 ([] the practitioner has a history of not receiving Office actions)." Id.

Conclusion

The record supports the conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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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17 BATTERY PLACE
SUITE 1231
NEW YORK NY 10004

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Suzuki et al.	:	
Application No.: 09/273,286	:	DECISION ON
Filing or 371(c) Date: 03/19/1999	:	PETITION
Attorney Docket Number: KO36-3629	:	

This is a decision in response to the Renewed Petition Under 37 CFR § 1.181, filed October 20, 2006.

This Petition **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and issue Fee Due ("Notice"), mailed July 6, 1999. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on October 7, 1999. A Notice of Abandonment was mailed November 10, 1999.

December 8, 2005 Petition under 37 CFR 1.181

Applicant filed a petition to withdraw the holding of abandonment on December 8, 2008, wherein applicant alleged non-receipt of the Notice. In support of this assertion, Applicant filed a copy of his Master Docket Book and a copy of the front face of the application file jacket, and stated that he had received no communication from the PTO in this application other than the filing receipt.

The petition was dismissed in a Decision mailed August 16, 2006. The Decision dismissing the petition noted that neither the Notice nor the Notice of Abandonment were received by Applicant. Moreover, the filing receipt had also not been entered on the file jacket.

The present Renewed Petition

Applicant files the present renewed petition and provides that the data from the filing receipt (application serial number and filing date), is entered on the front face of the file jacket upon receipt of the Filing Receipt. Regarding the Notice of Abandonment, Applicant attests to a search of the master docket records for the period from November 10, 1999 through January 10, 2000, and that the docket records contain no indication of receipt of the Notice of Abandonment.

Applicant admits that the circumstances of not receiving two notices in the same application are unusual, neither notices were received.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, explains that

> 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. (Emphasis supplied).

MPEP 711.03(c)

Analysis and conclusion

Applicant has met the Delgar showing. Accordingly, the petition is granted.

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
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BERESKIN AND PARR
40 KING STREET WEST
BOX 401
TORONTO, ONTARIO, CA M5H 3Y2

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JUL 27 2007

OFFICE OF PETITIONS

In re Patent No. 6,501,413	:
Issue Date: December 31, 2002	:DECISION GRANTING PETITION
Application No. 09/273,461	:UNDER 37 CFR 1.378(c)
Filed: March 22, 1999	:
Attorney Docket No. 14119-32	:

This is a decision on the petition, received July 26, 2007, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.[1]

The petition is GRANTED.

The patent issued December 31, 2002. The grace period for paying the first (3 ½ year) maintenance fee expired at midnight on December 31, 2006. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

This file is being forwarded to Files Repository.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] The petition original filed on February 7, 2007 has not to date been located. However, in view of the evidence submitted, the petition will be treated as having been filed in the USPTO on February 7, 2007. Further, Office finance records disclose that the maintenance and surcharge fees were received on February 7, 2007.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 29

Eitan Pearl Latzer & Cohen Zedek
10 Rockefeller Plaza, Suite 1001
New York, NY 10020

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OFFICE OF PETITIONS

In re Application of :
Vladimir Volokh :
Application No. 09/273,468 : ON PETITION
Filed: March 22, 1999 :
Attorney Docket No. P-68422-US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 27, 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 non-final Office action mailed October 22, 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 January 23, 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 3722 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Latrice Bond

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

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SEP 30 2009

OFFICE OF PETITIONS

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

In re Patent No. RE36770 :
Issued: July 11, 2000 : ON PETITION
Application No. 09/273,567 :
Filed: March 22, 1999 :
Reissue of Patent No. 5,614,737 :
Original Issued: March 25, 1997 :
Attorney Docket No. 105773.00110

This is a request for information in response to the petition under 37 CFR 1.378(e), filed February 9, 2009, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(e) filed May 1, 2009. No additional fees are due.

The original patent issued March 25, 1997. The 3.5 year maintenance fee could have been paid from March 25, 2000, through September 25, 2000, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from September 26, 2000 to March 25, 2001. The maintenance fee was not paid. Accordingly, the patent expired at midnight on March 25, 2001.

Petitioner is required to address the following points:

- Additional information regarding the Thomson Master Data Center's IP Master docketing software and its use in the industry and why it is a reliable system.

- Explain the process used to enter petitioner's data into the Thomson Master Data Center's IP Master docketing software, more specifically, what data integrity and error checks were used in the process.

- Explain, in detail, the tests conducted to verify the completeness and reliability of the data entered into the database and provide statements from employees who were involved with the data entry.
- Explain how the data entry was accomplished and how the error may have occurred.

- The statement of Andrew Yost relative to how the alleged clerical error may have occurred is noted. It is also noted that petitioner states that petitioner was unable to secure a statement from Linda Bynum-Cosby who was the Docketing Manager at the time the alleged data entry error occurred. Mr. Yost's statement provides a context for the petition, but is of little evidentiary weight because he does not have first-hand knowledge of the events surrounding the alleged data entry error that resulted in the non-payment of the 3.5-year maintenance fee. A grantable petition under 37 CFR 1.378(b)/(e) must affirmatively identify the cause of the error, which would

include the how the error occurred and who might be responsible for the error, and provide a first hand account of the circumstances relating thereto.

- It is reasonable to expect that, prior to paying a maintenance fee, petitioner might routinely check the status of the patent and might check to be sure the maintenance fee payment has been accepted by the USPTO. Yet, in this case, petitioner was aware that the 3.5-year maintenance fee due date had been docketed incorrectly previously, but petitioner thought it not reasonable or prudent to check with the USPTO to be sure the 3.5-year maintenance fee was timely received. Further, at the time the 7.5-year maintenance fee came due, petitioner still did not check the status of the patent. Once the attempt to pay the 7.5-year maintenance fee was made, petitioner did not check to be sure the 7.5-year maintenance fee was accepted. Petitioner should explain how these actions, or inactions, represent the exercise of diligence and prudence in the maintenance of the patent the demonstration of which is the hallmark of a successful petition under 37 CFR 1.378(b).

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

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 27

PHILIP S. JOHNSON, ESQ
CHIEF PATENT COUNSEL
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of
Shlomo Ben-Haim et al
Application No. 09/273,646
Filed: March 23, 1999
Attorney Docket No. 20088-13

ON PETITION

This is a decision on the petition, filed by facsimile transmission on November 24, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 22, 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 3737 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAIL

Paper No. 15

OCT 1 0 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

W. Daniel Swayze, Jr.
TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of:
Kuki et al.
Application No. 09/273,833

Filed: March 22, 1999
For: MEDIA NOISE POST-PROCESSOR WITH VARYING THRESHOLD

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the copy of the CPA paperwork filed 8/15/03, which is being treated as a petition to withdraw the holding of abandonment of the above identified application.

In the above identified application, Final Rejection was mailed to the applicant on October 17, 2002. An After-Final response was filed by the applicant on January 14, 2003. An Advisory Action was mailed to the applicant on January 28, 2003, informing the applicant that the response was not persuasive. In response, applicant filed a one (1) month extension of time and a Notice of Appeal. The above identified application became abandoned due to Applicant's failure to timely file an Appeal Brief by Monday May 19, 2003. No Notice of Abandonment was mailed.

Petitioner asserts that a proper response in the form of a Continued Prosecution Application (CPA) was timely filed on May 20, 2003. In support of the petition, petitioner submits a copy of Express mailing label EV053665577US showing a "date in" date of May 20, 2003; a copy of a Transmittal Request for Continued Prosecution Application (CPA) with the same Express Mailing Label number thereon. A review of the U.S. Patent and Trademark Office records reveal that the extension of time filing fee was not applied to the instant application. A fee of $750 was applied toward Continuing Prosecution Application on May 20, 2003.

The filing of papers and fees by Express mail is covered by 37 C.F.R § 1.10. 37 C.F.R 1.10 (e) states:

> "Any person mailing correspondence addressed as set out in § 1.1 (a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence file in the office on the USPS deposit date, provided that:
>
> *(1) the copy of the CPA paper work is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;*
>
> *(2) the number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";*

(3) the copy of the CPA paperwork includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official date entered by the USPS, a showing pursuant to paragraph (d) (3) of this section that the requested fling date was the date the correspondence was deposited in the "Express Mail Post office to Address" service prior to the last scheduled pickup for the day; and,

(4) the petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS."

Although the CPA request was not timely filed, Practitioner included a general authorization to charge their deposit account for any required fees in the paper filed February 17, 2003. Accordingly, the request for withholding abandonment is deemed to meet the requirements.

Therefore, the holding of the Abandonment is withdrawn.

The petition is **GRANTED**.

The Application file is being forwarded to the technical support staff for processing of the CPA request, and for charging the necessary fees for a second month extension of time in the amount of $300, in order for the CPA request to be accepted as timely filed. Thereafter, the application will be forwarded to the examiner for further examination.

Jin F. Ng, Director
Technology Center 2600
Communications
(703) 305-4800

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL Paper No. 14

MOSER, PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, NJ 07702

SEP 2 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
GOLESTANI
Application No. 09/273,948
Filed: March 22, 1999
For: SCALEABLE CONGESTION CONTROL METHOD FOR MULTICAST COMMUNICATIONS OVER A DATA NETWORK

DECISION ON PETITION

This is a decision in response to the paper received by facsimile on July 21, 2004 entitled "Request for Update of PTO Records and for Re-mailing." The request is being treated as a petition under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **denied**.*

This application became abandoned for failure to timely file a response to the final Office action mailed July 11, 2003, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on March 23, 2004.

Petitioner alleges that the final Office action was mailed to an incorrect address. In support thereof, petitioner submits a copy of a change of address purported to have been filed by facsimile on April 28, 2003, prior to the mailing of the final Office action. However, the copy of Auto-Reply Facsimile Transmission submitted with the petition indicates that only one page was transmitted on April 28, 2003. It is noted that the copy of the submission attached to the petition, the change of address is on the second page. The original first page was received and entered in the file. The second page with the pertinent change of address information was not received.

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 copy of the submission with change of address does not have a certificate of transmission affixed thereon in accordance with 37 CFR § 1.8(a). Consequently, the petition does not meet the requirements of Rule 1.8(b).

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration. This time period is not extendable under 37 CFR 1.136(a). Petitioner should consider filing a petition under 37 CFR 1.137.

The application file is being returned to the file repository. The address of record has been changed to that shown above in accordance with the request attached to the petition.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOSER, PATTERSON & SHERIDAN
LUCENT TECHNOLOGIES, INC.
595 SHREWSBURY AVENUE
SHREWSBURY NJ 07702

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AUG 2 6 2005

OFFICE OF PETITIONS

In re Application of	:	
S. Jamaloddin Golestani	:	
Application No. 09/273,948	:	ON PETITION
Filed: March 22, 1999	:	
Attorney Docket No. 2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2004, to revive the above-identified application.

The petition is **DISMISSED.**

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

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The 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 11, 2003, 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)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, one month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 12, 2003.

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: 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

PATTERSON & SHERIDAN
LUCENT TECHNOLOGIES, INC.
595 SHREWSBURY AVENUE
SHREWSBURY NJ 07702

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FEB 01 2006

OFFICE OF PETITIONS

In re Application of	:	
S. Jamaloddin Golestani	:	
Application No. 09/273,948	:	DECISION GRANTING PETITION
Filed: March 22, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 11, 2003, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 2667.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 38

FOLEY & LARDNER
3000 K STREET, N.W.
SUITE 500
WASHINGTON, DC 20007-5143

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AUG 04 2003

OFFICE OF PETITIONS

In re Application of :
Nicolas Voute et al :
Application No. 09/274,014 : ON PETITION
Filed: March 22, 1999 :
Attorney Docket No. 9676-286 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2003, 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 December 19, 2002, 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, the filing of a continuing application, or Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). Since the amendments submitted do not *prima facie* placing the application in condition for allowance, no request for filing of a continuing application, and no Notice of Appeal (and appeal fee) was timely filed. Extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 20, 2003.

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 1723.

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

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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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Mailed: 5/16/05

dss
Paper Number

In re application of
E. Hebert et al..
Serial No. 09/274,015
Filed: March 22,1999
For: MULTILAYER GOLF BALL WITH A THIN THERMOSET OUTERLAYER

DECISION ON PETITION

This is a response to the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181, filed November 04,2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed October 27, 2004, for failure to timely file a proper reply to the Office letter mailed March 12,2003 be withdrawn since the applicants did timely file a reply on May 30,2003. (Copies of the papers filed May 30,2003 are 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 May 30,2003 as evidenced by the USPTO date stamped return receipt postcard indicating receipt of the reply at the USPTO on May 30, 2003 and fees charged on May 30, 2003 for the Information Disclosure Statement submitted with the reply of May 30,2003 . Accordingly, any holding of abandonment for failure to timely file a proper reply to the Office letter mailed March 12, 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 May 30,2003.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Stephanie D. Scruggs
Swidler, Berlin, Shereff, Friedman, LLP
3000 K Street NW, Suite 300
Washington, DC 20007

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

MICHAEL A. PROKSCH
BLAKELY, SOKOLOFF ,TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1026

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MAY 05 2003

OFFICE OF PETITIONS

In re Application of :
MCVEIGH et al. :
Application No. 09/274,152 : ON PETITION
Filed: March 22, 1999 :
Attorney Docket No. 42390.P7110 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2002, which has been treated as a petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the nonfinal Office action mailed August 21, 2001, which set a three-month shortened statutory period to respond. A Notice of Abandonment was mailed on August 26, 2002.

In the present petition, petitioners asserted that they filed a timely response to the nonfinal Office action. Upon a review of the file, it appears that petitioners submitted an amendment, a request for a one-month extension of time to reply, and an extension of time fee, each containing a certificate of mailing of December 6, 2001. Accordingly, the Notice of Abandonment is hereby vacated. The holding of abandonment is withdrawn and the application is restored to pending status in view of the fact that the amendment is being considered as timely filed and received in the USPTO.

The petition fee of $1,280.00 will be credited to Deposit Account No. 02-2666, as requested by petitioners.

This application file is being forward to Technology Center 2600 for review of the amendment.

Telephone inquiries should be directed to the undersigned at (703) 306-5589.

Christina Tartera 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
Washington, D.C. 20231
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DIW 07-00

Paper No. 6

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

MICHAEL A PROKSCH
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD 7TH FLOOR
LOS ANGELES, CA 90025-1026

In re Application of	:
McVeigh et al.	:
Application No. 09/274,157	: DECISION GRANTING PETITION
Filed: 22 March, 1999	:
Attorney Docket No. 42390.P7111	:

This is a decision on the petition filed on 8 June, 1999, requesting that the above-identified application, including Figure 14, be accorded a filing date of 22 March, 1999.

On 22 March, 1999, the application was deposited.

On 20 April, 1999, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date and that the drawing of Figure 14 described in the specification was omitted.

In response, on 8 June, 1999, inter alia, the present petition and an authorization to charge counsel's deposit account for the requisite petition fee were filed. Petitioners argue that ten (10) sheets of drawings containing Figures 1 through 15 were included with the application papers deposited on 22 March, 1999. As evidence thereof, petitioners submitted a copy of their postcard receipt which acknowledges receipt of ten (10) sheets of drawings on 22 March, 1999. Petitioners request that the application, including Figure 14, be accorded a filing date of 22 March, 1999, and the petition fee be refunded. A copy of one (1) sheet of drawings including Figure 14 was also submitted.

Upon review of the record, no sheet of drawings containing Figure 14, deposited on 22 March, 1999, has been located among the application papers. However, the evidence is convincing that the application papers deposited on 22 March, 1999, included one (1) sheet of drawings containing Figure 14, which was subsequently

misplaced in the PTO. Therefore, the application, including a drawing of Figure 14, is entitled to a filing date of 22 March, 1999.

In view of the above, the petition is granted. The one (1) sheet of drawing containing Figure 14 submitted with the petition will be used for examination purposes. The petition fee, which has been charged to counsel's deposit account, will be refunded.

The Notice mailed on 20 April, 1999, was sent in error and is hereby vacated.

Receipt is acknowledged of an Information Disclosure Statement filed on 30 April, 1999.

The $130.00 petition fee will be credited to counsel's deposit account, No. 02-2666.

Thereafter, the application will be returned to the Office of Initial Patent Examination for further processing with a filing date of 22 March, 1999, using the application papers filed on 22 March, 1999, and the one (1) sheet of drawing containing Figure 14 filed on 8 June, 1999, and an indication on the file wrapper that ten (10) sheets of drawings were included on filing.

Any inquiries related to this decision should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy 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, D.C. 20231
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JAN 31 2003

Paper No. 10

In re Application of
Yoshihisa Fujioka *et al*
Application No. 09/274,197
Filed: March 22, 1999
Attorney Docket No. 2309/0F390US0

: DECISION ON PETITION

This is a petition on the petition filed on September 27, 2002 by which petitioners request the establishment of a new shortened statutory period for filing a reply to the Office letter dated January 24, 2002, which was a Notice of Non-Compliant Amendment. The petition is being considered under 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Petitioners allege that the did not receive the Office letter in question. The record shows that petitioners were informed of the mailing of that letter as a result of a telephone inquiry by the examiner. Apparently, the examiner advised petitioners to file a petition "under 1.81 (*sic*, 1.181) providing evidence of nonreceipt so that the Office Action can be remailed and the period for response restarted."

A review of the petition shows that petitioners have not supplied any evidence in support of the allegation of nonreceipt of the Office letter in question. Petitioners are advised to review MPEP § 711.03(c), in particular page 700-140, wherein there is a discussion of the Notice originally published at 1156 OG 53 which establishes the minimum requirements for establishing nonreceipt of Office correspondence. Although the evidentiary showing set forth therein is discussed in the context of withdrawing a holding of abandonment, that evidentiary showing will now be accepted under the circumstance in which an applicant is informed of the mailing of an Office action which has not been received by applicant, even though the application has not yet been held to have become abandoned.

Petitioners are invited to file a renewed petition which includes a showing as discussed in MPEP § 711.03(c). No fee is required for the renewed petition, but the renewed petition must be filed within two months of the date of this decision. See 37 CFR 1.181(f).

PETITION DISMISSED.

John Kittle, Director,
Technology Center 3700

Darby & Darby
805 Third Avenue
New York, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 24 2003

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Darby & Darby
805 Third Avenue
New York, NY 10022

Paper No. 12

In re Application of	: DECISION ON PETITION
Yoshihisa Fujioka et al	:
Serial No. : 09/274,197	:
Filed : March 22, 1999	:
For : Absorbent Article for Prevention of Sideward Leak	:

This is a decision on petitioner's renewed request filed March 24, 2003 by which petitioners request the establishment of a new shortened statutory period for filing a reply to the Office letter dated January 24, 2002, which was a Notice of Non-Compliant Amendment. Petitioners allege that they did not receive the Office letter in question. The petition is being considered under 37 CFR 1.181, and no fee is required.

In a decision mailed January 31, 2003 in response to the first request to establish a new shortened statutory period for filing a reply to the Office letter dated January 24, 2002, petitioners were directed to section 711.03(c) of the MPEP to establish non-receipt of Office correspondence. Although the evidentiary showing set forth therein is discussed in the context of withdrawing a holding of abandonment, that evidentiary showing is acceptable under the circumstance in the instant application in which applicant is informed of the mailing of an Office action which has not been received by applicant, even though the application has not yet been held to have become abandoned. In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The renewed request filed March 24, 2003 includes all the above elements. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Notice of Non-Compliant Amendment that was originally mailed January 24, 2002; the remailing of this Notice will establish a new shortened statutory period for response.

Summary: Notice of Non-Compliant Amendment of January 24, 2002 to be remailed setting forth new shortened statutory period for response.

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

ak/04/21/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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In re Patent No. 6174508
Issue Date: January 16,2001
Application No. 09274455
Filed: March 22,1999
Attorney Docket No. KLAT-520

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

This is a decision on the electronic petition, filed May 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 May 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)
6,174,508	2001-01-16	09/274,455	1999-03-22	043557/201948

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John E. Johnson, III/	Date (YYYY-MM-DD)	2009-05-19
Name	John E. Johnson, III	Registration Number	58367

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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Technology Center 2100

In re Application of:
Paul C. KOCHER
Application No. 09/274,496
Filed: March 23, 1999
For: METHOD AND SYSTEM FOR COPY-PREVENTION OF DIGITAL COPYRIGHT WORKS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed June 4, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Edward J. Radlo
Sonnenschein Nath & Rosenthal LLP
685 Market Street
6th Floor
San Francisco, CA 94105

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Paper No. 28

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APR 2 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

David J. Cushing
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

In re Application of:
Phillip Merrick et al.
Application No. 09/274,979
Filed: March 23, 1999
For: XML REMOTE PROCEDURE CALL

DECISION ON PETITION UNDER 37 CFR §1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed 19 March 2004 under 37 CFR §1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the Office Action mailed 05 August 2003 (paper no. 25). A Notice of Abandonment was mailed 10 March 2004 (paper no. 26).

In support of the petition, Petitioner provides a copy of (1) an amendment, (2) a "transmission verification report", and (3) an "auto-reply facsimile transmission" from the United States Patent and Trademark Office showing receipt of a 34 page transmission, transmitted 05 January 2004.

The "auto-reply facsimile transmission" from the United States Patent and Trademark Office for the response filed 05 January 2004 establishes that a response to the Office action of 05 August 2003 was filed on 05 January 2004. Thus, Petitioner has established that a response was timely filed and the Abandonment was the result of Office error in not matching the response to the application file.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center support staff for entry of the amendment and for charging a two-month extension of time to Deposit Account 19-4880. After processing, the application will then be forwarded to the Examiner for appropriate action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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David Cushing
Sughrue Mion, PLLC
2100 Pennsylvania Avenue, N.W.
Suite 800
Washington, DC 20037

MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Merrick, et al.
Application No.: 09/274,979
Filed: March 23, 1999
Attorney Docket No.: A007145
For: XML REMOTE PROCEDURE CALL (XML-RPC)

DECISION ON PETITION *UNDER 37 CFR §1.181*

This is a decision on the petition filed July 15, 2005, which is being treated under 37 CFR §1.181(a). No fee is required.

A review of the file record indicates that a Notice of Allowance has been counted in the instant application on December 13, 2004, and recently mailed on August 16, 2005.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181(a) to invoke supervisory authority to order issuance of the Notice of Allowance in this application, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

The application file is being forwarded to the Office of Patent Publication to continue allowance processing. The issue fee is due in accordance with the Notice of Allowance and Issue Fee(s) Due (PTOL-85) mailed August 16, 2005. Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

.ICE RE: CERTIFICATES OF CORRECTI

Paper No. 5

DATE : ~~7-25-00~~ 9-5-01

TO : Supervisor, Art Unit 1600

SUBJECT : Certificate of Correction Request in Patent No. 6015557

A response to the following question(s) is requested with respect to the accompanying request for a certificate of correction.

☒ 1. Would the change(s) requested under 37 CFR 1.323 constitute new matter or require reexamination of the application?

☒ 2. Would the change(s) requested under 37 CFR 1.323 materially affect the scope or meaning of the claims allowed by the examiner in the patent?

☐ 3. Applicant disagrees with change(s) initialed and dated by Examiner in lieu of an Examiner's Amendment. Should the change request be granted?

☒ 4. With respect to the change(s) requested, correcting ~~Office~~ AH errors, should the patent read as shown in the certificate of correction?

☐ 5. If the amendment filed _____ had been considered by the Examiner, would the amendment have been entered?

PLEASE RESPOND WITHIN 7 DAYS AND RETURN THE FILE TO
Room 918, PK-3

Valerie Jacobs
Patent Assistant

TO: CERTIFICATES OF CORRECTION BRANCH	DATE:

The decision regarding the change(s) requested in the certificate of correction is shown below.

1.	☐ YES	☐ NO	☐ Comments below
2.	☐ YES	☐ NO	☐ Comments below
3.	☐ YES	☐ NO	☐ Comments below
4.	☐ YES	☐ NO	☐ Comments below
5.	☐ YES	☐ NO	☐ Comments below

PUBLISH

☐ Comments _____

Approved

OLIK CHAUDHURI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Supervisor *Art Unit*

PTOL-306 (REV. 10/87)

U.S. DEPARTMENT OF COMMERCE 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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EZRA SUTTON P A
PLAZA 9
900 ROUTE 9
WOODBRIDGE NJ 07095

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MAY 09 2008

In re Patent No. 6,015,557 :
Issue Date: 1/18/2000 :
Application No. 09/275,070 : ON PETITION
Filed: 3/23/1999 :
Attorney Docket No. TOBINICK-3.0 :

This is a decision on the petition under 37 CFR 1.378(c), filed 3/13/2008, to accept the delayed payment of a maintenance fee for the above identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 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.

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.

As to the lacking item (1) above, 37 CFR 1.378(c) requires a statement that "the delay in payment of the maintenance fee was unintentional." However, no such statement has been provided. Office records show that only a one-page cover letter and "Page 1 of 3" of the PTO/SB/66 form were facsimile-transmitted to the Office on 3/13/2008. The required statement appears in neither the cover letter nor the "Page 1 of 3" of the PTO/SB/66 form. It is noted that the statement can normally be found on "Page 3 of 3" of the PTO/SB/66 form, as evidenced by the enclosed form. Therefore, the petition is considered to not contain a proper statement of unintentional delay.

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 Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

Enc: PTO/SB/66

PTO/SB/66 (10-05)
Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

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

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

Patent No. _____ Application Number _____

Issue Date _____ Filing Date _____

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

Also complete the following information, if applicable

The above - identified patent:

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

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

CERTIFICATE OF MAILING (37 CFR 1.8(a))

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

_____ Date

_____ Signature

_____ Typed or printed name of person signing Certificate

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

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

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

1. SMALL ENTITY

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

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

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

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

MAINTENANCE FEE BEING SUBMITTED $_____

4. SURCHARGE

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

SURCHARGE BEING SUBMITTED $_____

5. MANNER OF PAYMENT

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

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

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

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

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

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

7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No._____.

OR

☐ Send refund check.

WARNING:

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

8. STATEMENT

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

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

Signature(s) of Petitioner(s)	Date
Typed or printed name(s)	Registration Number, if applicable
Telephone Number	
Address	
Address	

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

ENCLOSURES:

☐ Maintenance Fee payment

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

☐ _____

Privacy Act Statement

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

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

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

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900 ROUTE 9
WOODBRIDGE NJ 07095

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JUN 10 2008

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,015,557 :
Issue Date: January 18, 2000 :
Application No. 09/275,070 :
Filed: March 13, 1999 :
Attorney Docket No. TOBINICK-3.0 :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed May 23, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 19, 2008 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Petitioner further requests, under 37 CFR 1.26(a), refund of: (1) the $1640 surcharge fee as the maintenance fee was timely submitted less $30 in fee increases, i.e., petitioner submitted $1215 instead of the $1245 due; and (2) the $400 request for reconsideration fee as petitioner filed all the necessary documents with the original petition. As petitioner failed to timely submit the maintenance fee and surcharge-late payment within six months the $1640 surcharge was due. Additionally, petitioner has not submitted any evidence showing that all the original documents were submitted with the original petition. Therefore, the $400 request for reconsideration fee was due. As the fees were not paid in excess or by mistake the fees will not be refunded.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 22

ROBERT A. DIEHL
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
7TH FLOOR
LOS ANGELES, CALIFORNIA 90025

MAILED

JAN 0 7 2005

Technology Center 2100

In re Application of: Hart et al.	)	
Application No. 09/275,273	)	DECISION ON REQUEST TO
Attorney Docket No. 42390.P5368	)	WITHDRAWAL HOLDING OF
Filed: March 23, 1999	)	ABANDONMENT
MULTIPLE VOLTAGE REGULATORS	)	
FOR USE WITH A SINGLE LOAD	)	

This is a decision on the request to withdraw the holding of abandonment, filed November 30, 2004, which is treated as a petition under 37 C.F.R. §1.181(a) and M.P.E.P. §711.03 (c): Petitions Relating to Abandonment, to withdraw holding of abandonment.

The petition is **GRANTED.**

Applicable Prosecution History

August 12, 2004	Examiner affirmed by Board (Paper No. 19).
November 08, 2004	Notice of Abandonment (Paper No. 20).
November 30, 2004	Request to withdraw holding of abandonment (Paper No. 21) which includes a copy of the auto-reply facsimile transmission, a copy of the October 12, 2004 Request for Continued Examination (RCE), the Certificate of Transmission, and the amendment filed with the RCE.

A grantable petition must include a copy of the response and proof of timely filing of the response. A properly used Certificate of mail 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.

The request for the withdrawal of abandonment and the copy of the auto-reply facsimile both indicate that the October 12, 2004 Request for Continued Examination (RCE), the Certificate of Transmission, the amendment filed with the RCE, and the authorization to charge fees associated with filing the RCE and for the extra claim were timely filed on October 12, 2004. Copies of these papers were filed with the request for withdrawal of the holding of abandonment and thus serve as a record of the contents of these papers in the file jacket.

The Auto-Reply facsimile cover page which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Petitioner has established that a response was filed on October 12, 2004 with the authorization to charge the requisite fee for extensions of time necessary for the response to be considered timely. Thus, Petitioner has established that a response was timely filed and the Abandonment was the result of Office error in not matching the response to the application file.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**. The Office regrets any inconvenience caused by this error.

The application file is being forwarded to the Technology Center support staff with instructions to withdraw the holding of abandonment and for processing of the amendment. In addition, the support staff in instructed to charge the $808.00 fee to deposit account **# 50-0221** for filing of the RCE and for the extra claim. After processing, the application will then be forwarded to the Examiner for appropriate action.

1/4/05

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

HMJ: 12/27/04

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#39

NORRIS MCLAUGHLIN & MARCUS PA
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

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MAR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Jahn, et al.	:	
Application No. 09/275,534	:	ON PETITION
Filed: March 24, 1999	:	
Attorney Docket No. 100717-331	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed March 14, 2005. The petition was recently forwarded to the Office of Petitions for consideration.

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

The above application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed January 6, 2004. Applicants filed a "COMBINED REQUEST TO WITHDRAW THE NOTICE OF ALLOWANCE MAILED JANUARY 6, 2004 AND REQUEST FOR INTERFERENCE" on February 24, 2004. In response, the Office subsequently mailed a second Notice of Allowability on July 1, 2004. The Notice stated that the request for interference was not granted. The Notice also stated that "this notice of allowance supercedes the previous notice of allowance, which, as applicant explains, was premature in view of the request for suspension of action" (filed on November 24, 2003). However, the Office did not mail a Notice of Allowance together with this new Notice of Allowability. Instead, the Office mailed a Notice of Abandonment on January 13, 2005.

In view of the Notice of Allowability mailed July 1, 2004, and the examiner's comments stated therein, it is obvious that the Notice of Allowance mailed January 6, 2004 was mailed in error.

In view thereof, the petition under 37 CFR 1.181 is granted.

The matter is being forwarded to Group Art Unit 1723 for re-mailing of a Notice of Allowance, setting a new period for reply, and crediting the $1,330 issue fee and $300 publication filed on November 24, 2003.

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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United States Patent and Trademark Office
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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND OR 97204

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of	:	
David A. LEE	:	
Application No. 09/275,722	:	DECISION ON PETITION
Filed: March 24, 1999	:	
Attorney Docket No. 113622	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 09, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 03, 2006, 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 November 04, 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 an amendment; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final office action of August 03, 2006, is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

The application file is being referred to Technology Center AU 2135 for appropriate action on the concurrently filed amendment.

David A. Bucci
Petitions Examiner
Office of Petitions

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

#6

January 19, 2000

Mark A. Wurm
Greenberg Traurig
1750 Tysons Blvd. 12th Floor
McLean, VA 22102

In re application of:
John C. Hermansen et al.
Application No. 09/275,766
For: SYSTEM AND METHOD FOR ADAPTIVE MULTI-CULTURAL SEARCHING AND MATCHING OF PERSONAL NAMES

DECISION GRANTING PETITION

This is a decision on the petition filed December 20, 1999, requesting that the above-identified application be withdrawn from the holding of abandonment and restored to pending status.

The petition is granted.

Petitioners allege that they never received the Notice to File Missing Parts mailed on April 13, 1999.

The evidence submitted is sufficient to establish that the Notice to File Missing Parts of Application was not received by the petitioners.

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

A new Notice to File Missing Parts of Application is attached to the petition, setting a new response period two months from the notice date.

Doshie Day

Doshie E. Day
Program Management Assistant
Office of Initial Patent Examination
(703) 308-3640

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ROBERTS MLOTKOWSKI SAFRAN & COLE, P.C:
Intellectual Property Department
P.O. Box 10064
MCLEAN VA 22102-8064

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In re Patent of	:	
Hans Leysieffer	:	
Pat. Number: 6162169	:	ON PETITION
Issue Date: 12/19/2000	:	
Attorney Docket Number: 740105-41	:	

This is a decision on the "Petition Under 37 CFR 1.377 for Acceptance of Maintenance Fee," filed June 2, 2008.

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 "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The patent issued December 19, 2000. Office records reveal that the seven and one-half (7½) year maintenance fee was paid in the large entity amount on March 6, 2008.

Petitioner files the present petition and asserts that it is currently not possible to pay the seven and one-half (7½) year maintenance fee due to the misapplication of another's fee payment to the present patent. Petitioner provides that the attorney docket number of the attorney who paid the maintenance fee is not that of the firm of record, Petitioner herein. Petitioner requests acceptance of the maintenance fee submitted with the present petition, and that the previously paid maintenance fee be returned to the payee or associated with the correct patent.

Petitioner has not filed any evidence with the present petition that demonstrates that an attempt to pay the maintenance fee prior to the filing of the present petition was made.

Applicable Law, Rules and MPEP

The applicable Rule, 37 CFR 1.377, states:

(a) Any patentee who is dissatisfied with the refusal of the Patent and Trademark Office to accept and record a maintenance fee which was filed prior to the expiration of the patent may petition the Director to accept and record the maintenance fee.

(b) Any petition under this section must be filed within two months of the action complained of, or within such other time as may be set in the action complained of, and must be accompanied by the fee set forth in § 1.17(g). The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

(c) Any petition filed under this section must comply with the requirements of § 1.181(b) and must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

The MPEP 2580 explains as follows:

37 CFR 1.377 provides a mechanism for review of a decision refusing to accept and record payment of a maintenance fee filed prior to the expiration of a patent. 37 CFR 1.377(a) permits a patentee who is dissatisfied with the refusal of the Office to accept and record a maintenance fee which was filed prior to the expiration of the patent to petition the Director to accept and record the maintenance fee. This petition may be used, for example, in situations where an error is present in the identifying data required by 37 CFR 1.366(c) with the maintenance fee payment, i.e., either the patent number or the application number is incorrect. See MPEP § 2515 and § 2530. A petition under 37 CFR 1.377 would not be appropriate where there is a complete failure to include at least one correct mandatory identifier as required by 37 CFR 1.366(c) for the patent since no evidence would be present as to the patent on which the maintenance fee was intended to be paid. If the maintenance fee payment with an incorrect mandatory identifier was made near the end of the grace period, the patent might expire since the Office would not credit the fee to the patent. A petition under 37 CFR 1.377 would not be appropriate where the patentee paid a maintenance fee on one patent when the patentee intended to pay the maintenance fee on a different patent but through error identified the wrong patent number and application number. Likewise, a petition under 37 CFR 1.377 would not be appropriate where the entire maintenance fee payment, including any necessary surcharge, was not filed prior to expiration of the patent.
Any petition filed under 37 CFR 1.377 must be filed within 2 months of the action complained of, or within such other time as may be set in the action complained of. The petition must be accompanied by the proper petition fee >(37 CFR 1.17(g))<. The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to have resulted from an error by the Office.

Analysis/conclusion

Petitioner asserts that it is currently not possible to pay the seven and one-half (7½) year maintenance fee due to the misapplication of another's fee payment to the present patent; however, the rule applies where has been a refusal of this Office to accept and record a maintenance fee. Petitioner does not aver that this Office refused to accept and record a maintenance fee, but only that it was prepared to pay the maintenance fee. Petitioner has not demonstrated that an attempt to pay the seven and one-half (7½) year maintenance fee was made, and that the attempted payment was refused.

Regarding payment of the maintenance fee, the applicable rule 37 CFR 1.366, Submission of maintenance fees, provides:

> (a) The patentee may pay maintenance fees and any necessary surcharges, or any person or organization may pay maintenance fees and any necessary surcharges on behalf of a patentee. Authorization by the patentee need not be filed in the Patent and Trademark Office to pay maintenance fees and any necessary surcharges on behalf of the patentee.

In this instance, the seven and one-half (7½) year maintenance fee was due, was paid when due, in the amount due, thus no maintenance fee is currently due.

Regarding the duplicate payment, the MPEP 2532, Duplicate Payments, states

> In the event a maintenance fee is submitted (hereafter, duplicate payment) in the required amount (including any necessary surcharge) within the payment window for the patent identified for payment, but the same maintenance fee for that patent was already paid by a previous fee submitter (hereafter, first fee submitter), the Office intends to treat the duplicate from the second fee submitter as follows:
> (A) If the duplicate payment does not comply with 37 CFR 1.366(c) by not containing both the patent number and the corroborating application number, the Office will return the duplicate payment to the second fee submitter with an indication that the maintenance fee for the patent was already paid.
> (B) If the duplicate payment does comply with 37 CFR 1.366(c) by containing both the patent number and the corroborating application number, the Office will verify that the first payment was properly processed.
> (1) If the first payment was properly processed, the Office will return the duplicate payment to the second fee submitter. In this event the returned payment will be accompanied by identification of the first fee submitter.
> (2) If a review of the Office record of the first maintenance fee payment reveals that the first payment was not properly processed (e.g., did not comply with 37 CFR 1.366(c) or was not specially accepted in accordance with MPEP § 2530), the Office will attempt to determine whether the first payment should have been applied to a patent other than the patent identified under 37 CFR 1.366(c) by the second fee submitter. Based on this determination the Office will: (a) attempt to apply the duplicate payment (and retract the

first payment); or (b) return the duplicate payment to the second fee submitter with identification of the first fee submitter.

In this instance, the first payment was properly processed. The first submitter is the law firm of Connolly Bove Lodge & Hutz LLP, 1875 Eye Street, N.W., Suite 1100, Washington, DC 20006.

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

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

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

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

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

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

#22
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF THE DIRECTOR
TC 3600

Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
1300 I Street, NW
Washington, DC 20006

In re application of
Joseph Robert Offutt Jr. et al.
Application No. 09/275,887 :
Filed: March 25, 1999 :
For: METHODS AND APPARATUS FOR DETERMINING NON-OBVIOUS SAVINGS IN THE PURCHASE OF GOODS AND SERVICES :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 8, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with conditions A) and B) above

As to condition A), the attorney signing the request does not have power of attorney in this application. Furthermore, in the original declaration, Debbie Segers of Sabre, Inc. was also given power in this application and the request fails to list this attorney. If only the attorneys of Finnegan, Henderson, Farabow, Garrett & Dunner listed in the original declaration are to have power withdrawn and Debbie Segers is intended to remain having power of attorney for this case, this needs to be made clear in any supplemental request; otherwise the above-noted attorney would need to be added to the request.

As to condition B), a proper reason for withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
(703) 605-0586 (facsimile)

SNM/tpl: 3/6/03

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OFFICE OF PETITIONS

ROSS D. SNYDER & ASSOCIATES, INC.
PO BOX 164075
AUSTIN, TX 78716-4075

In re Application of
Mark William Janoska, et al.
Application No. 09/275,934
Filed: March 24, 1999
Attorney Docket No.: 1400.4100209

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 9, 2009.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fees on or before December 19, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 19, 2008. A Notice of Abandonment was mailed on January 12, 2009. In response, on March 9, 2009, the present petition was filed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. However, in accordance with 37 CFR 1.34(a), the signature of Gregory J. Murgia 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. . If Mr. Murgia desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Murgia, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

[1] 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 the statement is not made by an attorney of record, 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.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GREGORY J. MURGIA
600-700 MOUNTAIN AVENUE
MURRAY HILL, NJ 07974

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OFFICE OF PETITIONS

ERIK B. CHERDAK & ASSOCIATES, LLP
11300 ROCKVILLE PIKE, SUITE 906
ROCKVILLE, MD 20852

In re Application of :
Sandro Pasquali :
Application No. 09/276,016 : ON PETITION
Filed: March 25, 1999 :
Attorney Docket No. 040.0023

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 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 November 14, 2000, which set a shortened statutory period for reply of three (3) months. Two months extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 15, 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 November 16, 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 2100 for further processing.

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

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OFFICE OF PETITIONS

Gregory D Caldwell
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard Seventh Floor
Los Angeles CA 90025

In re Application of :
Yousseff :
Application No. 09/276,021 : UNDER 37 CFR 1.47(b)
Filed: March 25, 1999 :
Atty. Dkt. No.: 024/1 :
For: RAPID TRAINING ECHO :
CANCELLOR FOR :
TELECOMMUNICATIONS SYSTEM

This decision is in response to the petition under 37 CFR 1.47(b), filed September 7, 1999.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed March 25, 1999 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed April 29, 1999 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition fails to satisfy items (1), (2), (4), and (6) set forth above.

As to item (1), petitioner has failed to establish that the non-signing inventor has refused to execute the oath or declaration after having been presented with the complete application papers (specification including claims, drawings, and oath or declaration) or cannot be located for presentation of the application papers.

The instant petition fails to set forth if petitioner alleges the non-signing inventor has refused to execute the oath or declaration after having been presented with a complete copy of the application papers or if petitioner alleges the non-signing inventor cannot be located for presentation of the application papers.

There is no evidence to establish the non-signing inventor received a complete copy of the application papers and thereafter refused to executed the oath or declaration.

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address.

Any renewed petition must establish that the non-signing inventor was presented with a complete copy of the application papers and thereafter refused to execute the oath or declaration.

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventor indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. Petitioner's attention is directed to MPEP 409.03(d) for further guidance.

Petitioner has failed to establish the non-signing inventor cannot be reached or located.

Petitioner is reminded that before it is alleged that an inventor cannot be reached or located, petitioner is required to demonstrate that diligent effort has been exerted to locate the non-signing inventor for presentation of a complete copy of the application papers (specification, including claims, drawings, and oath or declaration).

Petitioner has failed to establish that diligent effort has been made to locate the inventor.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventors may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (2), the petition is not accompanied by an oath or declaration properly executed on behalf of the non-signing inventor. The declaration is unacceptable as it fails to identify

the inventor by name, residence, mailing address, and citizenship. Correction is required. The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. *See*, MPEP 409.03(b).

As to item (6), petitioner has failed to present a showing that action under 37 CFR 1.47 is required to preserve the rights of the parties or to prevent irreparable damages. Irreparable damage may be established by a showing in the form of a statement that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTEL/BLAKELY
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of
Yousseff
Application No. 09/276,021
Filed: March 25, 1999
Atty. Dkt. No.: 024/1
For: RAPID TRAINING ECHO
CANCELLOR FOR
TELECOMMUNICATIONS SYSTEM

UNDER 37 CFR 1.47(b)

This decision is in response to the renewed petition under 37 CFR 1.47(b) and the petition under 37 CFR 1.137(b), filed February 12, 2007.

DECISION UNDER 37 CFR 1.47(b)

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

Petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed March 25, 1999 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed April 29, 1999 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to

preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy requirement (2) set forth above. A declaration in compliance with 37 CFR 1.63 has not been presented.

The declaration submitted September 9, 1999 (copy of which was provided with the instant petition) is not acceptable as it fails to identify the inventor by address, residence, and citizenship as required under 37 CFR 1.63.

The declaration submitted with the instant petition, while it identifies the inventor by name, residence, and citizenship, fails to identify the inventor's address. Moreover, it has not executed on behalf of the inventor by someone authorized by assignee to do so.

Any renewed petition should be accompanied by a proper oath or declaration wherein the name, address, residence, and citizenship of the inventor is set forth. The declaration should be executed by a corporate officer, such as the president, vice president, secretary, or treasurer of the assignee on behalf of and as agent for the non-signing inventor. The corporate officer's title or position must be identified in the declaration. If an officer is unavailable to execute the declaration, the declaration may be signed on behalf of the corporation by one whose proof of signing authority has been submitted to the Office, such as the corporation's attorney. The signature block of the non-signing inventor should remain unexecuted. *See* MPEP 409.03(b).

DECISION UNDER 37 CFR 1.137(b)

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

This application became abandoned November 23, 2006 for failure to timely reply to the Notice of Allowance (Notice) mailed August 22, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed March 23, 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 Notice of Allowance and Issue Fee Due is accepted as having been unintentionally delayed.

This application is being retained in the Office of Petitions pending renewed petition under 37 CFR 1.47.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of :
Yousseff :
Application No. 09/276,021 : UNDER 37 CFR 1.47(b)
Filed: March 25, 1999 :
Atty. Dkt. No.: 42P8950 :
For: RAPID TRAINING ECHO :
CANCELLOR FOR :
TELECOMMUNICATIONS SYSTEM

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed December 10, 2007.

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

Petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted herein. The reply under 37 CFR 1.47(b) may include an oath or declaration executed by the non-signing inventors. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed March 25, 1999 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed April 29, 1999 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee;(4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The petition fails to satisfy requirement (2) set forth above. A declaration in compliance with 37 CFR 1.63 has not been presented.

The declaration submitted is not acceptable because it has not been properly executed on behalf of the non-signing inventor. Petitioner argues that the declaration authorizes practitioners at Customer Number 45209 to act on behalf of assignee for the instant application. Petitioners further reference the statement under 3.73(b) signed by Mr. Caldwell wherein Mr. Caldwell states he is authorized to act on behalf of assignee. The power of attorney to Customer Number 45209 is not in question. Mr. Caldwell's authorization to prosecute the application is also not in question.

The problem lies with the execution of the declaration. The declaration is executed by David Simon.

In accordance with MPEP 409.03(b)(A) "[w]here an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation."

It is unknown if David Simon, the individual who executed the declaration, is a registered attorney or agent acting on behalf of the assignee. To the extent that Mr. Simon is acting as a registered attorney or agent on behalf of the assignee, he must state (on the declaration) that he is authorized to sign the declaration on behalf of the assignee.

It is unknown if David Simon is simply signing the declaration on behalf of assignee and not in the capacity of a registered attorney or agent.

To the extent that Mr. Simon is signing the declaration on behalf of assignee, and not as a registered attorney or agent, Mr. Simon must comply with the requirements of MPEP 324, which includes the submission of a statement under 3.73(b) executed by Mr. Simon.

The statement under 3.73(b) submitted herewith is signed by Mr. Caldwell, not Mr. Simon. Mr. Caldwell, however, did not execute the declaration.

Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf.

It does not appear that Mr. Simon is a corporate officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer). There does not appear to be anything in the record that establishes that the assignee has authorized Mr. Simon to sign the declaration on its behalf.

Accordingly, any renewed petition must be accompanied by an oath or declaration that properly identifies the non-signing inventor and is properly executed on behalf of the assignee. *See*, MPEP 409.03.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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SUNNYVALE CA 94085-4040

In re Application of	:	
Yousseff	:	DECISION GRANTING STATUS
Application No. 09/276,021	:	UNDER 37 CFR 1.47(b)
Filed: March 25, 1999	:	
Attorney Docket No. 42P8950	:	

This is in response to the petition under 37 CFR 1.47(b), filed January 15, 2008.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor cannot be located to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Khalid Yousseff
224 Lembeck Avenue, Apt. #2
Jersey City, NJ 07305

COPY MAILED

MAR 18 2008

OFFICE OF PETITIONS

In re Application of
Yousseff
Application No. 09/276,021
Filed: March 25, 1999
For: RAPID TRAINING ECHO CANCELLOR
FOR TELECOMMUNICATIONS SYSTEM

Dear Sir:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining 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 (571) 272-3205. 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 the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Paper No. 37

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Joseph Michael Christie, et al.
Application No. 09/276,042
Filed: March 25, 1999
For: **SYSTEM FOR MANAGING TELECOMMUNICATIONS**

DECISION
ON PETITION

This is a decision on the request filed on October 14, 2004 which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to MPEP §711.03 and 37 C.F.R. §1.181. No fee is required.

This application became abandoned for failure to timely file a response to the non-final Office action mailed October 1, 2003, which set a shortened statutory period of three months to reply. A Notice of Abandonment was mailed on October 5, 2004.

Petitioner alleges to have timely filed a proper response to the non-final Office action mailed October 1, 2003. In support, petitioner has provided as evidence, a copy of said response, a copy of a petition for two months extension of time and a copy of a Transmittal letter itemizing the aforementioned items which included a certificate of facsimile transmission dated March 1, 2004. Also included with the response is a copy of a facsimile transmission summary report indicating that a 7-page document from Petitioner was successfully transmitted to the U.S. Patent and Trademark Office on March 1, 2004.

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. <u>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</u>. [emphasis added]

The petition did not included a statement from Laura S. Mellblom attesting to the previous timely mailing or transmission of the response. However, the petition was accompanied by the sending unit's report confirming transmission on March 1, 2004 of 7 pages to the Office's official fax number.

Accordingly, the petition is **Granted**. The Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the copy of the original response which accompanied the subject petition. The petition for two month extension of time has been charged to Applicants' deposit account as requested. From there, the file will be forwarded to the examiner for consideration 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
Washington, D.C. 20231
www.uspto.gov

Paper No. 10

Denis G. Maloney
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804

MAILED

JUN 1 4 2002

Technology Center 2100

In re Application of:	)	
Black et al.	)	
Application No. 09/276,056	)	**DECISION ON REQUEST FOR**
Filed: March 25, 1999	)	**WITHDRAWAL AS ATTORNEY**
For: FAULT TOLERANCE FOR NETWORK ACCOUNTING ARCHITECTURE	)	

This is a decision on the Request To Withdraw from Representation filed May 7, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 7, 2002 meets all the requirements. 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.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

cc: NORTEL NETWORKS LIMITED
IP Law, Business Services
600 Technologe Park Drive
Mail Stop E65-60-104
Billerica, MA 01821-5501

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6145200
Issue Date: November 14,2000
Application No. 09276174
Filed: March 25,1999
Attorney Docket No. PHN-16.826

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

This is a decision on the electronic petition, filed May 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 27,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6145200	2000-11-14	09276174	1999-03-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,214,452	2001-04-10	09/276,272	1999-03-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christa Hildebrand/	Date (YYYY-MM-DD)	2007-04-02
Name	Christa Hildebrand	Registration Number	34953

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6214452
Issue Date: April 10,2001
Application No. 09276272
Filed: March 25,1999
Attorney Docket No. 990315

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 2,2007 ,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 April 2,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OWEN L. LAMB
P.O. BOX 386
PRESCOTT, AZ 86302-0386

COPY MAILED
AUG 23 2006
OFFICE OF PETITIONS

In re Application of Bollay	:	
Application No. 09/276,598	:	Decision on Petition
Filing Date: March 25, 1999	:	
Attorney Docket No. D-1507	:	

This is a decision on the petition under 37 CFR 1.181, filed August 23, 2004, and supplemented April 8, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A proper request to change the address of record was filed February 7, 2003. The Office failed to change the address of record.

Papers mailed July 1, 2003, notified petitioner of deficiencies within the brief and provided petitioner with the longer of 30 days or 1 month to file a corrected brief. The papers were mailed to the old, incorrect address. Petitioner failed to receive the papers mailed July 1, 2003.

A Notice of Abandonment was mailed March 22, 2004. The Notice of Abandonment was mailed to the old, incorrect address.

Discussion:

Petitioner has demonstrated non-receipt of the papers mailed July 1, 2003.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3624 will be informed of the instant decision and the examiner will consider the corrected brief and other papers filed April 8, 2005, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OWEN L. LAMB
P.O. BOX 386
PRESCOTT AZ 86302-0386

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DEC 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Denison W. BOLLAY	:	
Application No. 09/276,598	:	DECISION ON PETITION
Filed: March 25, 1999	:	TO WITHDRAW
Attorney Docket No. D-1507	:	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 November 12, 2008.

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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Owen L. Lamb on behalf of all the attorneys of record.

All the attorneys of record 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 until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DENISON W. BOLLAY
850 ROCKBRIDGE ROAD
MONTACITO, CA 93108

C. B.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT of:
Inventor(s): TSUBATA et al.

Examiner: GERSTL, R

Patent No.: 6,194,444
Issued: February 27, 2001
Application No.: 09/276705

Group Art Unit: 1626

Atty. Dkt. P259957 | E3596-01CX
M# Client Ref.

OIPE JC33 JUN 1 5 2004 PATENT & TRADEMARK OFFICE

Title: 1, 2, 3 - THIADIAZOLE DERIVATIVES OR SALTS THEREOF ANDAGROHORTICULTURAL DISEASE CONTROLLER AND METHOD FOR USING THE SAME

* * * * * * *

June 15, 2004

Status Request Regarding Duplicate Letters Patent – Petition Granted

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On January 6, 2003 applicants petition requesting issuance of duplicate Letters Patent for the above-identified patent was Granted, a copy of the decision On Petition dated January 6, 2003 is attached. The Publishing Division was directed to issue duplicate Letters Patent, however, to date the duplicate Letters Patent has not been received. A check of the USPTO PAIR system does not indicate that a duplicate Letters Patent has ever been sent.

Please advise the status of the duplicate Letters Patent.

Respectfully submitted,

PILLSBURY WINTHROP LLP

By: Caroline D. Den

Caroline D. Dennison
Reg. No. 34494
Tel. No.: (703) 905-2047
Fax No.: (703) 905-2500

CDD/ldh
1600 Tysons Blvd
McLean, Va 22102
(703) 905-2000

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 15 2004
PATENT & TRADEMARK OFFICE

Paper No. 18

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

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JAN 06 2003

OFFICE OF PETITIONS

In re Patent No. 6,194,444
Issue Date: February 27, 2001
Application No. 09/276,705
Filed: March 26, 1999
Attorney Docket No. PMS-259957

ON PETITION

This is a decision on the request for reconsideration filed under 37 CFR 1.182, filed November 27, 2002, requesting issuance of duplicate Letters Patent for the above-identified patent.[1]

The petition is **Granted.**

The Publishing Division is directed to issue duplicate Letters Patent.

Per the authorization of G. Lloyd Knight, petitioner's deposit account no. 03-3975 has been charged in the amount of $130.00 for the duplicate letters patent.[2]

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent. The file is being forwarded to the Files Repository since it is not necessary for issuance of a duplicate Letters Patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Krystal Paige, (FAX 305-4372)
Susan Free, (FAX 305-4372)

RECEIVED
PILLSBURY WINTHROP LLP/VA
JAN 10 2003

CL 01453 MTR 025997
ATTY(S) GLK GJP
DUE: N-A
DKT BY (1) UMS

[1]A petition for duplicate letters patent was filed May 31, 2002 and dismissed September 16, 2002 for failure to prove non-receipt.

[2]No change of address had been filed with the USPTO at the time the Letters Patent were mailed. At the time of issue, the Letters Patent were mailed to the address of record. To date, a change of address still has not been filed with the USPTO.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 06-04

Paper No: 9

WHITHAM, CURTIS & CHRISTOFFERSON, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

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OFFICE OF PETITIONS

In re Application of
Kameyama :
Application No. 09/276,807 :
Filing Date: 26 March, 1999
Attorney Docket No. 01600048AA :

This is a decision on the petition filed on 28 May, 2004, as a request to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the non-final Office action mailed on 4 June, 2003, with reply due absent extension of time on 4 September, 2003;
- a result, the application was deemed abandoned after midnight 4 September, 2003;
- Notice of Abandonment was mailed on 26 May, 2004;
- with the instant petition Petitioner included, *inter alia*: documents evidencing the timely

filing (i.e., a date-stamped receipt card) of a reply in the form of an Amendment on 20 August, 2003, and a copy of the reply (Amendment).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner evidences timely reply, and so satisfies the showing as required under 37 C.F.R. §1.181.

CONCLUSION

Because Petitioner satisfied the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 hereby is **granted**, the 26 May, 2004, Notice of Abandonment is **vacated**, and the petition fee is waived.

The file is held in the Office of Petitions to address another matter.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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JUN 2 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 15

Beyer Weaver & Thomas, LLP
P.O. Box 778
Berkeley, CA 94704-0778

In re Application of: Chandran, et al. Application No.: 09/276,917 Filed: March 26, 1999 Attorney Docket No.: CISCP100/1156 For: NETWORK TRAFFIC SHAPING USING TIME-BASED QUEUES	)))))))	**DECISION ON PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8**

This is a decision on the request filed October 14, 2003 to have correspondence deemed to have been timely filed . The request is being considered as a petition to withdraw the holding of abandonment under 37 CFR § 1.8(b).

A non-final Office action was mailed January 28, 2003 (Paper No. 13). Although a Notice of Abandonment has not yet been mailed, there is no record of a proper response to the January 28, 2003 action prior to petitioners' submission of October 14, 2003.

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence will be considered timely filed if petitioners meet at least three conditions:

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 [emphasis added.];
2. Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
3. Includes a statement that 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 copy of the previously mailed correspondence and certificate as well as a statement by Leslie Russell that attests on a personal knowledge basis to the previous timely mailing (items 2 and 3 above).

However, the petition fails to provide evidence that the Office was notified **promptly** after the petitioners became aware that the Office had no evidence of receipt of the correspondence (item 1 above) (37 CFR 1.8(b)(1)). The practitioner states, "It was discovered by a routine status check by the Examiner that a response to his office action dated January 28, 2003 had not been responded to." Practitioner's statement and request omits the actual date(s) of discovery that the amendment and transmittal letter were not received by the USPTO, and must be provided in order for the petition to be granted.

The petition is **DISMISSED**.

If petitioners desire further review of this decision, petitioners should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned at 703-308-0885.

6/24/04

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

BLJ: 6/23/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

Paper No. 18

Beyer Weaver & Thomas, LLP
P.O. Box 70250
Oakland, CA 94612-0250

FEB 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Chandran, et al.
Application No.: 09/276,917
Filed: March 26, 1999
Attorney Docket No.: CISCP100/1156
For: NETWORK TRAFFIC SHAPING USING TIME-BASED QUEUES

DECISION ON PETITION TO ACCEPT CORRESPONDENCE AS TIMELY FILED UNDER 37 CFR §1.8

This is a decision on the request for reconsideration, filed on July 8, 2004 (duplicate copy filed December 22, 2004), of the decision to dismiss the petition filed October 14, 2003 to have correspondence deemed to have been timely filed under 37 CFR § 1.8(b).

The petition is **GRANTED**.

A non-final Office action was mailed January 28, 2003 (Paper No. 13). The decision to dismiss the petition of October 14, 2003 (Paper No. 14) was mailed on June 29, 2004 (Paper No. 15). A Notice of Abandonment was mailed on November 12, 2004 (Paper No. 16).

In considering petitioners' submission under 37 CFR § 1.8(b), the correspondence will be considered timely filed if petitioners meet at least three conditions:

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 that 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 filed October 14, 2003 includes a copy of the previously mailed correspondence and certificate as well as a statement by Leslie Russell that attests on a personal knowledge basis to the previous timely mailing (items 2 and 3 above). The request for reconsideration filed July 8,

2004 includes an acceptable statement regarding prompt notification to the Office of the previous timely mailing of the correspondence (item 1 above).

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 and to process the amendment (copy submitted October 14, 2003). The application will then be forwarded to the examiner for prompt action on the merits.

Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security

BLJ: 2/8/05

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MAR 3 1 2008

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of	:	
CHANDRAN, Kartik S. et al.	:	
Application No. 09/276,917	:	DECISION ON PETITION
Filed: March 26, 1999	:	TO WITHDRAW
Attorney Docket No. **CISCP100**	:	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 February 14, 2008.

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 James E. Austin. Haruo Yawata has been withdrawn as attorney or agents of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
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
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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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JUL 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Kobayashi, et al. :
Application No. 09/277,213 :
Filed: March 26, 1999 :
Attorney Docket No. FUJO-12.880A :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 23, 2004, to revive the above-identified application. The petition was recently forwarded to this office for review.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed February 23, 2004. A one (1) month extension of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), the date of abandonment of this application is June 24, 2004.

The file is being forwarded to Technology Center 2600 for review of the "Request for Continued Examination" (RCE) and amendment, filed December 23, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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GREGORY D. CALDWELL
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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NOV 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Carl Strathmeyer, et. al.	:	
Application No. 09/277,286	:	ON PETITION
Filed: March 26, 1999	:	
Attorney Docket No. 42390P8951	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the non-final Office action mailed December 27, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application file is being referred to Technology Center Art Unit 2642 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/28/06

Paper No.: —

TO SPE OF : ART UNIT 2135

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/277335 Patent No.: 7096320 B1

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: _____

KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

2135
Art Unit

09/277335

C07C

Knobbe Martens Olson & Bear LLP

Intellectual Property Law

2040 Main Street
Fourteenth Floor
Irvine, CA 92614
Tel 949-760-0404
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OIPE IAP2
NOV 16 2006
PATENT & TRADEMARK OFFICE

Karen J. Lenker
Patent Agent
949-721-2988
klenker@kmob.com

November 14, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Re: Title: DATA SECURITY FOR DIGITAL DATA STORAGE
Letters Patent No. 7,096,370
Issued: August 22, 2006
Our Reference: MTIPAT.076A

Dear Sir:

Enclosed for filing is a Certificate of Correction in connection with this patent.

As the errors cited in the Certificate of Correction were incurred through the fault of the Applicant, enclosed is our check in the amount of $100. Please charge any additional fees to our Deposit Account No. 11-1410.

Please enter
KM
12/7/06

Respectfully submitted,

Knobbe, Martens, Olson & Bear, LLP

Karen J. Lenker

Karen J. Lenker
Registration No. 54,618
Customer No. 20,995

Certificate
NOV 20 2006
of Correction

Enclosures

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111306

11/16/2006 HVUONG2 00000022 7096370
01 FC:1811 100.00 OP

NOV 20 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,096,370
APPLICATION NO. : 09/277,335
ISSUE DATE : August 22, 2006
INVENTOR(S) : Dean A. Klein

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

At column 5, line 46, after "40," insert - - 42, --.

At column 8, line 55 (Approx.), in Claim 1, before "generated" delete "the".

At column 9, line 6, in Claim 5, after "storage" delete "data storage".

At column 9, line 27 in Claim 6, after "media," delete "and".

3109533
111306

MAILING ADDRESS OF SENDER:

kjl
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. MTIPAT.076A

NOV 2 0 2006

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. 18

HELEN C LOCKHART
WOLF GREENFIELD & SACKS
600 ATLANTIC AVENUE
BOSTON, MA 02210

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MAY 08 2002

OFFICE OF PETITIONS

In re Application of Martha Karen Newell Application No. 09/277,575 Filed: March 27, 1999 Attorney Docket No. I00277/70004 (HCL/CSMD)	: : : : : :	DECISION GRANTING PETITION

This is a decision on the paper styled "Petition To Accord A Filing Date" filed April 11, 2002, requesting that the above-identified application be accorded a filing date of March 27, 1999, rather than the presently accorded filing date of March 26, 1999. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 27, 1999, pursuant to the requirements of 37 CFR 1.10. In support, applicant provided, inter alia, a copy of the Express Mail label, receipt no. EL025156975US. It is noted that the copy of the Express Mail label receipt reveals that the "date-in" entered is not clear, inasmuch as it can be read as 3-26-99 or 3-27-99; however, it includes a "Fort Point STA Boston MA USPS" receipt stamp dated March 27, 1999. The same Express Mail receipt number appears on the copy of the original transmittal letter submitted with the present petition.

In view of the official notation, in the form of an official USPS stamp, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on May 27, 1999.

The petition is granted.

No petition fee is required and none has been charged.

The application is being returned to Initial Patent Examination Division for correction of the filing date to May 27, 1999.

Telephone inquires specific to this matter should be directed to Wan Laymon at (703) 306-5685.

Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/28/06

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/277646 Patent No.: 6985189 B1

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: _____

SPE

2622
Art Unit

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RMI CORPORATION
18920 FORGE DRIVE
CUPERTINO CA 95014

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OFFICE OF PETITIONS

In re Patent No. 6252818	:	
Issue Date: 06/26/2001	:	
Application No. 09/277659	:	NOTICE
Filed: 03/26/1999	:	
Attorney Docket No. 003074.P008	:	

This is in response to the paper filed on October 21, 2008 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the aforementioned request, status as a Small Entity has been removed.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3231.

D Wood

Douglas Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, DC 20231

MAILED
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Office of Director
Technology Center 1600

RJH
Paper No. 8

In re Application of:
DUPRE, JOHN
Serial No.: 09/280,020
Filed: March 29, 1999
For: Treatment of Diabetese

DECISION ON PETITION

This is a decision on the petition, filed February 23, 2000, to withdraw the holding of abandonment. Note, the petition has been treated under the provisions of 37 CFR 1.181.

On June 18, 1999, a non-final rejection was mailed to applicant. On January 18, 2000, a Notice of Abandonment was mailed to applicant which indicated that the application was abandoned for failure to respond to the June 18, 1999 Office action. On February 23, 2000, the present petition was filed.

Petitioner asserted that on December 29, 1999, applicant did file a response to the June 18, 1999 Office action. Along with the petition, petitioner filed copies of the papers filed on December 29, 1999 as well as the required evidence that such papers were actually filed on that date.

From this, it is clear that applicant did properly and timely respond to the June 18, 1999 Office action. Accordingly, the petition is hereby GRANTED. The application has been returned to pending status. The copy of the response filed with the petition has been entered and the application forwarded to the examiner for appropriate action in a timely manner.

PETITION GRANTED.

John Doll, Director
Technology Center 1600

BRADFORD J DUFT
LYON & LYON
633 WEST FIFTH STREET
47 FLOOR
LOS ANGELES, CA 90071

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DEC 22 2004

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO ON M5G 1R7 CA CANADA

In re Application of: John Dupre Serial No.: 09/280,020 Filed: March 29, 1999 Attorney Docket No.: 241/145	: : : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicant's petition under 37 CFR § 1.181 filed on December 3, 2004, requesting withdrawal of the holding of abandonment based on the timely payment of the Issue Fee.

A review of the file history shows that the examiner mailed a Notice of Allowance to applicants on May 28, 2004. On October 21, 2004 a notice of abandonment was mailed for failure to pay the issue fee.

Applicant states that authorization to timely pay the issue fee was provided on August 16, 2004. Applicant has submitted the fax cover page, the fee transmittal page and the confirmation auto-reply facsimile transmission page as evidence of such authorization. In view of this evidence, applicants are considered to have paid the Issue Fee in a timely manner.

Applicant's petition is **GRANTED**. The application is restored to pending status with the mailing date of this decision and is being forward to the Office of Publications for allowance.

The appropriate fees will be charged to deposit account 19-2253.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine C. Chambers
Director, Technology Center 1600

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)
6490000	2002-12-03	09280130	1999-03-26	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert D. Hoge/	Date (YYYY-MM-DD)	2006-01-26
Name	Robert D. Hoge	Registration Number	55273

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6490000
Issue Date: December 3,2002
Application No. 09280130
Filed: March 26,1999
Attorney Docket No. P5202CIP

: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
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 12

DONALD L. COX
LYNCH, COX, GILMAN & MAHAN
AEGON CENTER- SUITE 2200
400 W. MARKET
LOUISVILLE, KY 40202

COPY MAILED

JAN 1 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Jon M. Miller	:	
Application No. 09/280,279	:	DECISION ON PETITION
Filed: March 29, 1999	:	
Attorney Docket No.	:	
MILLER.P001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2001, to revive the above-identified application. The delay in treating this petition is regretted.

This above-identified application became abandoned for failure to reply in a timely manner to the non-final Office Action mailed November 24, 1999, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above identified application became abandoned on February 25, 2000. A Notice of Abandonment was subsequently mailed on June 6, 2000.

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 revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the Continued Prosecution Application ("CPA").

The Correspondence Address Change has been entered and made of record.

This application is being forwarded to Technology Center AU 1616 for processing of the CPA.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6237712	2001-05-29	09280310	1999-03-29	D-4844

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 C. Bach/	Date (YYYY-MM-DD)	2009-07-28
Name	Mark C. Bach	Registration Number	34766

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6237712
Issue Date: May 29,2001
Application No. 09280310
Filed: March 29,1999
Attorney Docket No. D-4844

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 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 July 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.

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Paper No. 10

KEVIN L RUSSELL
CHERNOFF VILHAUER
MCCLUNG & STENZEL
ONE S W COLUMBIA SUITE 600
PORTLAND OR 97258

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AUG 0 5 2004
OFFICE OF PETITIONS

In re Application of
M. Ibrahim Sezan, et al.
Application No. 09/280,421
Filed: March 29, 1999
Attorney Docket No. KLR:7146.028

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on June 29, 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 December 23, 2003, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 24, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $950.00 extension of time submitted with the petition on June 29, 2004 was subsequent to the maximum extendable period for reply, the extension of time filed with the instant petition is unnecessary and the fee will be credited to petitioner's deposit account.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111.

The application file is being forwarded to Technology Center 2600, Art Unit 2611.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Kevin L. Russell
Chernoff Vilhauer McClung & Stenzel
1600 ODS Tower
601 SW Second Avenue
Portland, Oregon 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 10

KEVIN L RUSSELL
CHERNOFF VILHAUER
MCCLUNG & STENZEL
ONE S W COLUMBIA SUITE 600
PORTLAND OR 97258

COPY MAILED
AUG 05 2004
OFFICE OF PETITIONS

In re Application of
M. Ibrahim Sezan, et al.
Application No. 09/280,421
Filed: March 29, 1999
Attorney Docket No. KLR:7146.028

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on June 29, 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 December 23, 2003, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 24, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $950.00 extension of time submitted with the petition on June 29, 2004 was subsequent to the maximum extendable period for reply, the extension of time filed with the instant petition is unnecessary and the fee will be credited to petitioner's deposit account.

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The application file is being forwarded to Technology Center 2600, Art Unit 2611.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
AUG 20 2004
Technology Center 2600

Kevin L. Russell
Chernoff Vilhauer McClung & Stenzel
1600 ODS Tower
601 SW Second Avenue
Portland, Oregon 97204

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BANNING G LARY
6731 SW 87 TERRACE
PINECREST, FL 33143

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OFFICE OF PETITIONS

COMPLETED

In re Patent of
BANNING G LARY
Patent No. 6622734
Issue Date: 09/23/2003
Application No 09/280494
Filing or 371(c) Date: 03/30/1999
Title of Invention:
BALLOON WITH RECIPROCATING
STENT INCISOR

DECISION
ON PETITION

This is a decision on the petition under 37 CFR § 1.378(b), to reinstate the above-identified patent, filed October 19, 2007.

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 September 23, 2003. Patentee could have paid the three and one half (3½) year maintenance fee between September 23, 2006, and March 23, 2006, without a surcharge, or within the six (6) month grace period between March 24, 2006 and September 23, 2007. Patentee failed to do so; accordingly, the patent became expired on September 24, 2007.

The present petition

Patentee files the present petition to reinstate the patent based upon unavoidable delay in payment of the maintenance fee, and in support of the petition states that his old address was an office address, which Applicant closed. Applicant's states that his Attorney/Agent did not notify him to change his correspondence address.

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.

Patentee is also advised that a delay caused by the actions or inactions of Patentee's voluntarily chosen representative, does not constitute unavoidable delay. It is immaterial to the unavoidably delayed payment of the maintenance fee that that the Patentee's Attorney/Agent did not notify him to change his correspondence address. Patentee may not rely upon a delay caused by the actions or inactions of his Attorney/Agent to support an assertion that payment of the maintenance fee was unavoidable.

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. Here, Patentee has failed to enumerate any steps taken to ensure timely payment of the maintenance fee. Patentee provides that it was unaware that a fee was or would be due. However, again, 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 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. Under 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b) is precluded.

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. The petition for reconsideration should be entitled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration of this decision must be accompanied by a non-refundable petition fee of $400 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to 'show' that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may file a petition stating that the delay was unintentional.

Petition to reinstate based upon an unintentionally delayed payment of the maintenance fee under 37 CFR 1.378(c)

Applicant is strongly urged to file 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 was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.378(c) 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 reinstate under 37 CFR 1.378(c), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition to reinstate the patent under 37 CFR 1.378(c).

37 CFR 1.378(c) states that "any petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include:
(1) The required maintenance fee set forth in § 1.20 (e) through (g)[1];
(2) The surcharge set forth in § 1.20(i)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

III. 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, Commissioner for Patents, Washington, DC, 20231. A copy of this decision should accompany petitioner's request.

Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[1] Patentee may request that this Office apply the surcharge of $700.00 submitted as the surcharge for the present petition, to the surcharge for a petition under 37 CFR 1.378(c).

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
WASHINGTON, D.C. 20231
www.uspto.gov

MAIL

Paper No. 13

MAR - 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Robert E. Bushnell
1522 K Street N. W.
Suite 300
Washington, DC 20005

In re Application of:
Jae-Ick Ho
Application No. 09/280,541
Filed: March 30, 1999
Attorney Docket No. P55657
For: APPARATUS FOR INPUTTING AND DETECTING A DISPLAY DATA CHANNEL IN MANUFACTURING A MONITOR

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on December 05,2001, requesting that the shortened statutory period for reply set forth in the Office communication mailed on October 19,2001 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **GRANTED.**

Petitioner provided a statement that the Office communication in question was received at the correspondence address of record on December 03, 2001. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. Furthermore, the Office communication was mailed between October 13, 2001 and January 2, 2002, when delivery of mail from the Office to certain regions of the country was delayed.

Accordingly, the shortened statutory period that was originally set forth in the Office communication originally mailed on October 19, 2001 is hereby reset to run FROM THE ACTUAL RECEIPT DATE OF the Office communication, December 03, 2001. The application has been forwarded to technology center 2600 central files to await a response.

Joseph J. Rolla, Jr., 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

CAPITAL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA, VA 22183

COPY MAILED

MAR 15 2007

OFFICE OF PETITIONS

In re Application of :
Chambers :
Application No. 09/280,618 :
Filed: March 29, 1999 :
Attorney Docket No. 129250-000915/US :
For: DESTINATION CALL ROUTING
APPARATUS AND METHOD

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 16, 2007, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to timely submit a proper follow-up submission to the Notice of Appeal, filed September 13, 2005. No further submissions being received, the Office contended that this application became abandoned on November 14, 2005. A Notice of Abandonment was mailed on February 2, 2007.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that a RCE, the required fee, and a request to use a previously submitted amendment as the submission were filed on November 10, 2005. Petitioner has provided a copy of his OIPE date stamped return receipt postcard showing that a check for $990.00, a fee transmittal, a transmittal and a RCE was received in the Office on November 10, 2005.

A review of the copy of the RCE reveals that petitioner listed **completely** incorrect identifiers. The identifiers were those associated with application no. 10/697,498, which appears to be an unrelated application. In addition, it is noted that the certificate of mailing date for the RCE is October 27, 2005, which is significantly before November 10, 2005. The errors in identification of the application were so severe, that the Office could not associate the RCE with the proper application file. The errors were not of the type outlined in MPEP 502. Therefore, the petition under 37 CFR 1.181 is dismissed.

The undersigned suggests 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).

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 petitioners 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 may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis 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

CAPITAL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA, VA 22183

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Chambers :
Application No. 09/280,618 : ON PETITION
Filed: March 29, 1999 :
Attorney Docket No. 129250-000915/US :
For: DESTINATION CALL ROUTING
APPARATUS AND METHOD

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2007.

This application was held abandoned for failure to submit a proper follow-up submission to the Notice of Appeal, filed September 13, 2005. No further submissions being received, the Office contended that this application became abandoned on November 14, 2005. A Notice of Abandonment was mailed on February 2, 2007.

Petitioner has submitted a RCE and required fee and amendment as his reply, an acceptable statement of the unintentional nature of the delay, and the petition fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 2616 for consideration of the RCE and amendment filed on April 5, 2007.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6306934
Issue Date: October 23,2001
Application No. 09280639
Filed: March 29,1999
Attorney Docket No. PAI-50580

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 24,2007 ,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 April 24,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,306,934	2001-10-23	09/280,639	1999-03-29	50580

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/KENNETHJSTACHEL/	Date (YYYY-MM-DD)	2007-04-23
Name	KENNETH J. STACHEL	Registration Number	27722

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6397276
Issue Date: May 28,2002
Application No. 09280745
Filed: March 29,1999
Attorney Docket No. 607-P-5-USA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 15,2007 ,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 May 15,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,397,276	2002-05-28	09280745	1999-03-29	M-11294 US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jhallman/	Date (YYYY-MM-DD)	2007-05-15
Name	Jonathan W. Hallman	Registration Number	42622

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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 PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
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Paper No. 23

MAIL

AUG 1 5 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Texas Instruments Incorporated
P. O. Box 655474, MS 3999
Dallas, Texas 75265

In re Application of: Seiki Aguro
Application No. 09/281,042
Filed: March 30, 1999
For: COMPUTER SYSTEM

DECISION ON PETITION UNDER 37 C.F.R. § 1.181(a) TO INVOKE SUPERVISORY AUTHORITY

This is a decision on a petition, filed 8 July 2002, under 37 C.F.R. § 1.181(a) to invoke Supervisory Authority and require the Examiner to (A) withdraw the comments regarding applicant's duty to disclose, and (B) to clarify his position as to whether IEEE Standard 1149.1 discloses applicant's invention.

The petition is **GRANTED**. The nature of the relief is indicated below .

RECENT PROSECUTION BACKGROUND

October 24, 2000	-	Office action mailed. Examiner states that "Applicant's invention has been disclosed as part of IEEE Standard 1149.1" and asks whether "Representative is aware of any other relevant prior art." Examiner does not reject over the standard, but cites it as "prior art made of record but not relied upon".
March 26, 2001	-	Petitioner files response amending claims and stating that "neither the inventor nor the undersigned attorney is aware of closer prior art which would be material to the examination of this application."
June 18, 2001	-	Final Office action mailed. Examiner repeats remarks of the previous Office action and adds a paragraph "remind[ing]" Applicant of the duty to disclose under 37 C.F.R. 1.56
October 5, 2001	-	Petitioner files IDS and Amendment under 37 C.F.R. 1.116
March 5, 2002	-	Petitioner files Appeal Brief
June 3, 2002	-	Examiner issues notice of Non-Compliance with 37 CFR 1.192(c)
July 8, 2002	-	New Appeal Brief and the instant petition are filed.

RELIEF REQUESTED

The petition under 37 CFR § 1.181 requests the following relief:

A. Withdrawal of the Rule 56 Requirement.

B. Requiring the Examiner to clarify his position with respect to IEEE Standard 1149.1.

OPINION

A. Rule 56 requirement

MPEP §2010 states in relevant part:

2010 Office Handling of Duty of Disclosure/Inequitable Conduct Issues

> .. the Office ***does not investigate and reject*** original or reissue applications under 37 CFR 1.56. Likewise, the ***Office will not comment upon*** duty of disclosure issues which are brought to the attention of the Office in original or reissue applications except to note in the application, in appropriate circumstances, that such issues are no longer considered by the Office during its examination of patent applications.

As the Office does not comment upon duty of disclosure issues brought to its attention, it follows *a fortiori* that it does not initiate or introduce such comments into an application. Examiner's original remarks may have been a misguided attempt to make a requirement under 37 C.F.R. § 1.105. However, when Applicant responded, specifically stating that neither the inventor nor the undersigned attorney is aware of closer prior art which would be material to the examination of this application." Applicant clearly met the requirements of 37 C.F.R. §1.56. As explained in MPEP 714.12(a) the threshold for disclosure of information under 37 C.F.R. §1.56 is substantially higher than for a request for information under 37 C.F.R. §1.105. The Examiner's repeated requirement in the face of Applicant's statement was inappropriate.

The Examiner is directed to explicitly withdraw this requirement in the next Office communication.

B. IEEE Standard 1149.1

The examiner has repeatedly implied that the cited standard anticipates the invention but has never made a rejection of record. From the record, it is not clear whether (i) the examiner believes that the claims as presented are distinguishable over the reference (alone or in combination with other prior art) or (ii) that the claims may be rejected over the reference, but that the Examiner refrained from

issuing a rejection because it would have been cumulative to or weaker than the rejections already of record.

This ambiguity places Applicant in the unenviable position of possibly prevailing upon appeal on the rejections of record while the aura of unpatentability over the non-applied reference remains.

DECISION

The Petition is **GRANTED**.

The Examiner is directed to enter the Appeal Brief filed July 8, 2002 and to respond appropriately.

The following alternative courses of action would be deemed appropriate:

(i) Art Rejection - Reopen Prosecution

If a reasonable art rejection ***of any claim*** can be made based on the IEEE Standard 1149.1, then the Examiner is directed to make such rejection of record in unambiguous form and in clear detail. As this would constitute new grounds of rejection the Examiner would be required to reopen prosecution in the case. Examiner would be required to address arguments submitted in the appeal brief as in any amendment. (Note that the amendment filed October 5, 2001 was entered upon filing of the appeal brief). Furthermore, the Examiner is directed to address the IDS filed October 5, 2001 which has yet to be acknowledged and to specifically withdraw any requirement for applicant to file an IDS to comply with 37 C.F.R. §1.56.

(ii) No Art Rejection Based Upon IEEE Standard 1149.1

In the event that no art rejection is made employing IEEE Standard 1149.1 the Examiner shall specifically state so in the next action. The action shall clearly explain how the claims are distinguishable from the Standard and why no rejection is being applied.

(a) Other New Grounds of Rejection - Reopen Prosecution

If other new grounds of rejection are entered Examiner would be required to reopen prosecution. Examiner would be required to address arguments submitted in the appeal brief as in any amendment. (Note that the amendment filed October 5, 2001 was entered upon filing of the appeal brief). Furthermore, the Examiner is directed to address the IDS filed October 5, 2001 which has yet to be acknowledged and to specifically withdraw any requirement for applicant to file an IDS to comply with 37 C.F.R. §1.56.

(b) No New Grounds of Rejection - Issue an Examiner's Answer

If no new grounds of rejection are entered Examiner may Issue an Examiner's Answer. As part of the Answer, the Examiner is directed to address the IDS filed October 5, 2001 which has yet to be acknowledged and to specifically withdraw any requirement for applicant to file an IDS to comply with 37 C.F.R. §1.56.

The application is hereby **REMANDED** to the Examiner to issue an appropriate action in compliance with the guidelines set out above.

Inquiries with respect to this decision may be directed to Pinchus M. Laufer at (703) 306-4160.

Pinchus M. Laufer

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Security, Architecture, and Software
(703) 306-4160

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

WAK

Mailed: JAN 11 2002

Paper no. 12

In re: Kuhn et al.

Serial no. 09/281, 089

For: TEXTILE SURFACE COATINGS OF IRON OXIDE AND ALUMINUM OXIDE

: DECISION
: ON
: PETITION

This is a decision on the PETITION UNDER 37 C.F.R. 1.181, filed October 31, 2001 which is before the Director of Technology Center 1700 for decision. The petitioner requests reopening of prosecution because the specific requirements set forth within 37 C.F.R. 1.193(a)(2) as well as M.P.E.P. 1208.01 have not been met. Petitioner states that upon filing their Brief on Appeal, petitioner received an Examiner's Answer containing a new ground of rejection.

DECISION

A review of the application record shows that a final rejection under 35 USC 103(a) was made based on Ishino et al. 4,911,957 in view of Watanabe et al. 4,435,220. The Examiner's Answer of 10/02/01 makes a rejection under 35 U.S.C. 103(a) based on Oishi et al. 4,911,957 in view of Watanabe et .al. 4,435,220. A review of the references cited in the application shows that Ishino et al. has a patent number of 4,515,850 and that Oishi et al. has a patent number of 4,911,957.

After a careful review of the application record and the petitioner's argument, it is concluded that the petitioner's request to reopen prosecution is proper.

The Petition is **Granted.**

The application is returned to the Examiner for the reissuing of an office action in accordance with this decision.

Richard V. Fisher

Richard V. Fisher, Director
Technology Center 1700
Chemical and Materials Engineering

William S. Parks
Milliken & Company
920 Milliken Rd.
PO Box 1926
Spartanburg SC 29304

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)
6,258,455	2001-07-10	09/281,119	1999-03-29	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	///Helya M. Azari///	Date (YYYY-MM-DD)	2009-10-27
Name	Helya M. Azari	Registration Number	63586

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6258455
Issue Date: July 10,2001
Application No. 09281119
Filed: March 29,1999
Attorney Docket No. 99518409

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 27,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 27,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

JAN 3 1 2002

OFFICE OF PETITIONS

In re Application of	:	
Roger Panicacci	:	
Application No. 09/281,358	:	NOTICE
Filed: March 30, 1999	:	
Attorney Docket No. 08305/031001	:	

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
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, DC 20231
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Paper No. 6

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAIL

JAN 3 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/281,358

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Micron Technology, Inc.
C/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington DC 20037-1526

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 30

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NOV 23 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GREGORY A SEBALD
MERCHANT & GOULD PC
P O BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of:
HORST, et al.
Application No. 09/281,464
Filed: March 30, 1999
For: **METHOD AND APPARATUS FOR ASSIGNING ADDRESSES TO COMPONENTS IN A CONTROL SYSTEM**

DECISION
ON PETITION

This is a response to the request for withdrawal of the notice of abandonment, filed November 4, 2004. The petition is being treated under 37 CFR 1.8(b) to withdraw the holding of abandonment.

*The petition is **granted**.*

This application became abandoned for failure to timely file the issue fee in response to the Notice of Allowance and Issue Fee Due mailed January 23, 2004. A Notice of Abandonment was mailed on August 9, 2004.

Petitioner alleges to have timely filed a Request for Continued Examination (RCE) on April 23, 2004. To support this position, Petitioner has included with the instant petition a copy of the RCE and amendment bearing a proper certificate of facsimile transmission with a transmission date of April 23, 2004. Also included with the petition is a copy of an Auto-Reply Facsimile Transmission indicating that a 25 page document from Petitioner was received in the U.S. Patent and Trademark Office on April 23, 2004.

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.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the RCE and amendment. From there, the file will be forwarded to the examiner for consideration in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#9

PATENT & TRADEMARK OFFICE
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MAR 30 2000

LICENSING & REVIEW

In re Application of: Rajopadhye, et al.

Serial Number: 09/281,474
Filed: 03/30/99
Docket #: DM-6958

: DECISION TO
: WITHDRAW THE
: HOLDING OF ABANDONMENT

Title: Pharmaceuticals for the Imaging of Angiogenic Disorders

This is in regard to the Notice of Abandonment mailed 11/02/99 for failure to file a timely response to the Commissioner Letter mailed 9/9/99 which set a statutory 30 day period for response. The abandonment is hereby VACATED.

On 06/22/99, a requirement to submit a statement with respect to Govt property rights was mailed to the applicant setting a 45 day waiting period before a formal requirement was made. Having received no response, a formal requirement, Commissioner's Letter, setting a 30 day time period for response was mailed 09/09/99. Again, having received no response, the application was abandoned.

A timely filed response submitted 10/21/99 was not matched with the file until only recently.

The abandonment has been vacated and the application is being forwarded to the assigned examining Group for examination on the merits.

Joyce Brown
Supervisor, Licensing and Review
(703) 306-4191

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
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SEP 1 1 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

ON PETITION

SCOTT A HORSTEMEYER
THOMAS KAYDEN HORSTEMEYER & RISLEY
100 GALLERIA PARKWAY, SUITE 1750
ATLANTA, GA 30339

In re Application of
Gronemeyer et al.
Application No. 09/281,566
Filed: March 30, 1999
Attorney Docket No. 240/152

This is a decision on the petition under 37 CFR 1.137(b), filed on June 12, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the issue fee and to submit corrected formal drawings in a timely manner as required by the Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed February 1, 2000. Accordingly, this application became abandoned on May 2, 2000. No Notice of Abandonment was mailed.

This file is being forwarded to Technology Center 3600 for consideration of the amendment under 37 CFR 1.312(a) filed on June 12, 2000.

Telephone inquiries should be directed to Petitions Attorney Laurie Mayes at (703) 308-3145.

D Wood
for Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 4

JUL 21 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

LERNER AND GREENBERG
POST OFFICE BOX 2480
HOLLYWOOD , FL 33022-2480

In re Application of
BRIESKORN, JURGEN, *et al.*
Application No. 09/281,695
Filed: 03/30/1999
For: COMMUNICATIONS SYSTEM FOR THE CONTROL OF A COMMUNICATIONS

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the Petition Under 37 C.F.R. §1.47(a) filed on August 25, 1999.

HISTORY

The above-identified application was filed on March 12, 1999 naming Jürgen Brieskorn, Markku Korpi, Michael Sassin, and Shmuel Shaffer as joint inventors. However, the declaration was not properly signed by all co-inventors. Accordingly, a notice to file missing parts (hereinafter "the notice") was mailed to the address of record on April 20, 1999. Petitioner then filed his response to the notice on August 25, 1999.

LAW

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(l) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under § 1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the Official Gazette. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with §1.63.

ANALYSIS

When analyzed in light of the rule, this petition is lacking in three respects.

FEES

The notice to file missing parts noted that a surcharge of $130.00[1] is required for a complete response to the notice. While the required petition fee of $130.00 has been submitted with this petition, the required surcharge was not. Therefore, on that individual ground, this petition does not properly reply to the notice to file missing parts. Unfortunately, this is not the only aspect of this petition that is lacking.

---

[1] 37 C.F.R. §1.16(e)

PROOF OF DILIGENT EFFORTS TO LOCATE THE ABSENT CO-INVENTOR

Petitioner's proof of the pertinent facts pertaining to the diligent efforts made to locate the absent co-inventor consists of the following allegation:

> "In a telephone call on August 11, 1999, the assignee of the above-identified application informed counsel that the fourth-named joint inventor could not be reached to sign the declaration."

Petitioner is urged to note the M.P.E.P. 409.03(d) (Proof of Unavailability or Refusal), which states:

> "Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made...[t]he affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. *Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.*" Emphasis added.

Given the above reference, it appears that Petitioner's statement cannot meet the required standard of proof that the non-signing inventor(s) could not be found. Petitioner's statement is not a description of the exact facts; it is a conclusion based on hearsay. Furthermore, no documentary evidence has been provided to bolster Petitioner's declaration. Therefore, Petitioner has not satisfied the requirement of Rule 1.47 of supplying a declaration "accompanied by a petition including proof of the pertinent facts."[2]

UNSIGNED DECLARATION

Finally, it should be noted that while Petitioner did submit a new declaration, it has not been signed by any inventor, thus providing a third possible basis for dismissal of this petition. The notice to file missing parts of application noted that the declaration was unsigned, and Petitioner has certainly not responded to that deficiency with the submission of this declaration that has no signatures on it whatsoever.

DECISION

This petition is accordingly *dismissed*.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

[2] 37 C.F.R. §1.47(a).

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Scott Ledford at (703) 306-5593.

Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 6

OFFICE OF PETITIONS
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LERNER AND GREENBERG
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HOLLYWOOD , FL 33022-2480

In re Application of
Jurgen Brieskorn, Markku Korpi,
Michael Sassin, and Shmuel Shaffer
Application No. 09/281,695
Filed: March 30, 1999
For: COMMUNICATIONS SYSTEM FOR THE CONTROL OF A COMMUNICATIONS

DECISION NOTING JOINDER OF INVENTOR AND PETITION UNDER 37 CFR 1.47(a) MOOT

Papers filed on August 29, 2000, in response to a "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on July 21, 2000, included a copy of a previously transmitted[1] letter and Declaration signed by all co-inventors including the fourth inventor, Shmuel Shaffer previously indicated as unable to be reached, in compliance with 37 CFR 1.63 and 1.172. The letter included authorization to charge the required for an extension of time to respond to the Notice to File Missing Parts mailed April 20, 1999, to the practitioner's deposit account.

In view of the submission of an executed declaration signed by all four named inventors, and the request and authorization to charge the fee for an extension of time to respond to the Notice to File Missing Parts, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

The fee of $390.00 for a third month extension of time to respond to the Notice to File Missing Parts mailed April 20, 1999, beyond the two month extenison of time fee previously paid on August 25, 1999, will be charged to the practitioner's deposit account as authorized.

This application is being returned to the Office of Initial Patent Examination to complete processing of the application.

Inquiries related to this decision may be addressed to Petitions Attorney, Jennifer M. Hayes, at (703) 306-5608.

Beverly M. Flanagan for

Jennifer M. Hayes
Attorney Advisor
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

[1] The previoulsy transmitted correspondence bears a certificate of facsimle transmission and in view of the statement of Werner Sterner, is considered timely filed in accordance with 37 CFR 1.8(b)

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

COOLEY GODWARD
PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

COPY MAILED
AUG 1 4 2001
OFFICE OF PETITIONS

In re Application of :
John D. Baxter et al. :
Application No. 09/281,717 : ON PETITION
Filed: March 30, 1999 :
Attorney Docket No. 407T-980420US :

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2001, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on July 3, 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 Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 1600.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Tom Hunter
Law Offices of Johathan Alan Quine
P.O. Box 458
Alameda, CA 94501

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 30 2008

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No. 09/281717 patent no.76965850

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Marjorie A. Moran — **SPE**

1631 — **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. 4

FISH & RICHARDSON
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

FEB 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Alexander i Krymski :
Application No. 09/281,765 :
Filed: March 30, 1999 :
Attorney Docket No. 08305/03001/97-07 :

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 2612.

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

In re Patent No. 6087061
Issue Date: July 11,2000
Application No. 09281800
Filed: March 31,1999
Attorney Docket No. 175-238P

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed October 16,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 16,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6087061	2000-07-11	09281800	1999-03-31	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)	2009-10-16
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.

UNITED STATES 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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JUL 11 2007

OFFICE OF PETITIONS

DANIEL P. MORRIS
IBM CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
PO BOX 218
YORKTOWN HEIGHTS NY 10598

In re Application of	:	
Lawrence Shunwei Mok	:	
Application No. 09/282,141	:	DECISION GRANTING PETITION
Filed: March 31, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. YO999-060	:	

This is a decision on the petition under 37 CFR 1.137(b), submitted on February 9, 2007,[1] 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 Rejection of November 19, 2002, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2833.

Karen Creasy
Petitions Examiner
Office of Petitions

[1]Evidence has been provided to show that the original petition and amendment was transmitted by facsimile transmission on July 14, 2003 to the USPTO.

#22
8/1/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 2100

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 22

Patrick B. Law
Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago, IL 60690-1135

In re Application of: Schoenwolf, et al. Application No. 09/282,145 Attorney Docket No. 112740-638 Filed: March 31, 1999 For: DATABASE FOR PERSISTENT DATA	DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181(a)

This is a decision on the petition filed July 14, 2003 under 37 C.F.R. § 1.181(a) requesting the Withdrawal of the Holding of Abandonment. The Notice of Abandonment was mailed June 12, 2003 (Paper No. 20) for failure to respond to the Office action mailed October 22, 2002.

BACKGROUND

Jul 17, 2002	Power of Attorney, revocation of attorney and change of address filed (Paper No. 14)
Sep 24, 2002	Request for continued examination and extension of time filed (Paper No. 17)
Oct 22, 2002	Non final rejection mailed (Paper No. 18)
Mar 31, 2003	Change of address filed (Paper No. 19)
Jun 12, 2003	Notice of Abandonment mailed (Paper No. 20)

ISSUES

Petitioner has submitted a petition; a copy of the Power of Attorney with a change of address listing Customer No. 29177 as the attorney of record; and a copy of the postcard receipt dated July 17, 2002 for the filing of the Power of Attorney. The practitioner states he did not receive the Office action and that the Office action was mailed to the incorrect address as evidenced by Exhibit A which is the cover sheet for the October 22, 2002 Office action.

DECISION

A review of the Office copy reveals the Power of Attorney by Assignee dated July 17, 2002 is of record in the application. The Power contains a revocation and a request to direct all communications to "Bell, Boyd & Lloyd, LLC." The Office did not process this request and the

non-final Office action was mailed to an address which was never of record. The Office regrets any inconvenience caused by this error.

The evidence is sufficient to prove practitioner's nonreceipt of the Office mailing.

Accordingly, the petition is **GRANTED**. The holding of abandonment is withdrawn.

The application file will be forwarded to the Technology Center support staff. The non-final Office action will be remailed with the three-month period for reply restarted to run from the date of the remailing.

Josie A Ballato
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 308-0269

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6123067
Issue Date: September 26,2000
Application No. 09282315
Filed: March 31,1999
Attorney Docket No. WARRICK-PA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 13,2009 ,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 13,2009 . 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)
6123067	2000-09-26	09282315	1999-03-31	AMONI-82551

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 k. fitzgerald/	Date (YYYY-MM-DD)	2009-08-12
Name	John K. Fitzgerald	Registration Number	38881

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,768,745	2004-07-27	09/282,407	1999-03-31	REMB-0100

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Vincent J. Roccia/	Date (YYYY-MM-DD)	2008-10-02
Name	Vincent J. Roccia	Registration Number	43887

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6768745
Issue Date: July 27,2004
Application No. 09282407
Filed: March 31,1999
Attorney Docket No. 052601-1110

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 2,2008 ,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 October 2,2008 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 16

PILLSBURY MADISON & SUTRO
INTELLECTUAL PROPERTY GROUP
1100 NEW YORK AVENUE NW
NINTH FLOOR EAST TOWER
WASHINGTON, DC 20005-3918

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SEP 5 2001

OFFICE OF PETITIONS

In re Application of :
Tadashi Nakagawa et al :
Application No. 09/282,422 :
Filed: March 31, 1999 :
Attorney Docket No. PMS258714 :

ON PETITION

This is a decision on the petition, filed August 27, 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 December 22, 2000 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 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.

---

[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.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application is being forwarded to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

G. Lloyd Knight
Pillsbury Winthrop LLP
1600 Tysons Boulevard
McLean, Virginia 22102

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EDWARDS & ANGELL
P.O. BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of	:	
Indu Parikh	:	
Application No. 09/282,471	:	ON PETITION
Filed: March 31, 1999	:	
Attorney Docket No. 401865/SKYEPHARMA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 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 May 5, 2004, 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 6, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

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 (571) 272-3220.

This matter is being referred to Technology Center 1615 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO P.C.
THE CHRYSLER CENTER, 24TH FLOOR
666 THIRD AVENUE
NEW YORK, NY 10017

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MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO CA 94105

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AUG 17 2009

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,224,554 :
Issue Date: May 1, 2001 :
Application No. 09/282,514 :
Filed: March 31, 1999 :
Attorney Docket No. UPITT-13910 :

This is a decision on the petition under 37 CFR 1.378(c), filed July 30, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 2, 2009 for failure to pay the 7.5 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).

Pursuant to petitioner's request deposit account no. 08-1290 will be charged the 7.5 year maintenance fee ($1240) and the surcharge ($1640). It should be noted that the $65 six month surcharge was only available from November 2, 2008 until May 1, 2009.

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 the undersigned at (571) 272-3215.

The patent file is being forwarded to Files Repository.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11400 BURNET ROAD
AUSTIN TX 78758

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JAN 25 2007

OFFICE OF PETITIONS

In re Application of :
Lita et al. :
Application No. 09/282,633 :
Filed: March 31, 1999 :
Attorney Docket No. AUS919990088US1 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 27, 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) and 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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing 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. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

This matter is being referred to Technology Center 2100 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 Walsh
Petitions Examiner
Office of Petitions

Cc: STEPHEN A. TERRILE
P.O. BOX 203518
AUSTIN, TX 78720

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ANNE V. DOUGHERTY
3173 CEDAR ROAD
YORKTOWN HEIGHTS, NY 10598

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MAY 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Jonathan P. Brezin et al	:	
Application No. 09/282,860	:	DECISION GRANTING PETITION
Filed: March 31, 1999	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. YO999-121	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notices mailed April 28, 2004, which required the issue fee, the publication fee, and corrected drawings to be submitted on or before July 28, 2004 to avoid the abandonment of the application. No reply having been received, a Notice of Abandonment was mailed on September 13, 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 the $1,330 issue fee payment, the $300 publication fee payment and corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

The drawings submitted with the petition have been approved by the Official Draftsperson, as noted in the attached Notice of Draftsperson's Patent Drawing Review.

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
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 20

IBM CORPORATION
P.O. BOX 12195
DEPT 9CCA, BLDG 002
RESEARCH TRIANGLE PARK, NC 2770

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Daryl C. Cromer, et al.
Application No. 09/282,893
Filed: March 31, 1999
Attorney Docket No. RP9-99-005

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2003, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 1, 2002, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight February 1, 2003.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition is **GRANTED**.

The application is being forwarded to Technology Center 2600, for processing the Request for Continued Examination under 37 CFR 1.114, and the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (703) 308-6711.

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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAIL

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SAWYER LAW GROUP LLP
PO BOX 51418
PALO ALTO CA 94303

In re Application of
Daryl C. Cromer, et al.
Appl. No.: 09/282,893
Filed: March 31, 1999
For: **METHOD AND SYSTEM FOR PROVIDING PROTECTION AGAINST THEFT AND LOSS OF A PORTABLE COMPUTER SYSTEM**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed May 2, 2005, as supplemented on July 8, 2005, to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that the 2 page e-mail filed April 15, 2005, be expunged from the record. Petitioner states 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.

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 (2-page e-mail) has been closed from the electronic file.

Dwayne Bost
Special Programs Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of
Chao et al.
Application No. 09/282,907
Filed: March 31, 1999
Attorney Docket No.
AUS919980441US1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application was held abandoned for failure to timely file a supplemental appeal brief. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on December 1, 2005 providing applicant with an extendable one month period for reply. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 2, 2006. A Notice of Abandonment was mailed on August 10, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a reply brief, (2) the petition fee of $1500.00, and (3) a proper statement of unintentional delay.

Review of the record shows that a three month extension of time was required to make the Notice of Appeal timely. The office is in receipt of only a one month extension of time ($110). As such a the $810 difference between a one month and three month extension of time will be charged to deposit account 09-0447.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2162 for appropriate action by the

Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of :
Bernie Paul Pearce, et al. :
Application No.: 09/283,125 :
Filed: March 31, 1999 :
Attorney Docket No.: 112025-0116 :

ON PETITION

This is a decision on the petition, filed August 9, 2006, requesting withdrawal of the holding of abandonment in the above-identified application. The petition is being treated under 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Office action of December 10, 2002, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 15, 2003. On August 9, 2006, the present petition was filed wherein petitioner asserts that a reply was timely filed on March 7, 2003. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on March 7, 2003 of an amendment and change of correspondence address. Petitioner explains that a petition requesting that the abandonment be withdrawn was filed on August 3, 2003; however, no decision was received. While petitioner renews his request under 37 CFR 1.181(a), a petition under 37 CFR 1.137(b) was also filed. A copy of the previously submitted reply accompanies the petition.

The papers acknowledged as having been received in the USPTO on March 7, 2003, are not of record in the application file and have not, to date, been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application is restored to pending status.

The copy of the reply supplied on August 9, 2006 with the petition will be accepted in place of the reply shown to have been received by the USPTO on March 7, 2003.

This application is being referred to Technology Center AU 2666 for appropriate action on the reply received with petition.

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Masaki Okada :
Application No. 09/283,285 :
Filed: April 1, 1999 : ON PETITION
Title of Invention: :
RECORDING APPARATUS AND REPRODUCTION :
APPARATUS :

This is a decision on the Petition Under 37 CFR 1.182 and Amendment, filed August 10, 2004, requesting entry of an amendment to the specification to insert a reference to an earlier filed application (namely, Application No. 08/320,833) pursuant to the provisions of 35 U.S.C. § 120.

The petition is granted.

The file record discloses that this application was co-pending with earlier-filed Application No. 08/320,833. The earlier-filed application, No. 08/320,833, is a continuation of application No. 07/935,908. This application became abandoned before a specific reference to earlier-filed application No. 07/935,908, was made in this application. Petitioner requests that this abandoned application be amended by inserting a reference to the above-noted, earlier-filed application.

The instant petition is accompanied by an amendment to include a reference to the prior-filed application in the first line of the specification following the title of the invention.

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*, 195 USPQ 136 (D.D.C. 1976).

In view thereof, the request for entry of an amendment to insert a reference to the above-noted, earlier-filed application is granted.

A corrected filing receipt which includes the reference to the prior-filed application Application, No. 07/935,908, accompanies this Decision.

The file is being referred to Publishing Division for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,184,087	2001-02-06	09/283,405	1999-04-01	TWT01148/US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brian M. McInnis/	Date (YYYY-MM-DD)	2009-05-22
Name	Brian M. McInnis	Registration Number	62583

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6184087
Issue Date: February 6,2001
Application No. 09283405
Filed: April 1,1999
Attorney Docket No. 726800087CPA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 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 May 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jerry Cohen Esq.
Perkins Smith & Cohen LLP
30th Floor
One Beacon Street
Boston, MA 02108-3106

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Patent No. 6,765,950 :
Issued: July 20, 2004 :
Application No.: 09/283,477 : ON PETITION
Filed: April 1, 1999 :
Attorney Docket No: **CST-002** :

This is a regarding the "Payment of Fee Deficiency and Request for Change of Entity Status" filed March 15, 2006, which will be treated as a petition under 37 CFR 1.28(c).

The petition is **GRANTED.**

By the instant petition, petitioner informs the USPTO that the inventive entity is not eligible for small status. The loss of small entity status is acknowledged and noted in the application file.

The application file will be directed to the Files Repository.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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. None

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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JUL 11 2006
OFFICE OF PETITIONS

In re Application of James R. H. Challenger et al. Application No. 09/283,561 Filed: April 1, 1999 Attorney Docket No.: YO999-011(87 Title: METHOD AND SYSTEM FOR EFFICIENTLY CONSTRUCTING AND CONSISTENTLY PUBLISHING WEB DOCUMENTS	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed April 11, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit an Appeal Brief within two months of the filing of a Notice of Appeal, filed on May 2, 2005. No extensions of time pursuant to 37 C.F.R. §1.136(a) were received. Accordingly, the above-identified application became abandoned on July 3, 2005. A Notice of Abandonment was mailed on February 2, 2006.

With the present petition, Petitioner has asserted that a response to this communication was timely filed on August 2, 2005, along with a petition for a one-month extension of time[1]. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated August 2, 2005, along with a petition for a one-month extension of time.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a

1 Petition, page 2.

response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN.**

The surcharge associated with the filing of a brief in support of an appeal has been charged to Petitioner's Deposit Account, as authorized in the petition.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Appeal Brief which was received with the present petition can be processed.

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

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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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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Torben Naurbo Dalgaard, et. al.	:	
Application No. 09/283,587	:	ON PETITION
Filed: April 1, 1999	:	
Attorney Docket No. 742114-11	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 3, 2005, to revive the above-identified application.

In response to the non-final Office action mailed November 4, 2004, petitioner hereby submits an authorization to charge $1,500 for the petition to revive fee, an amendment, five (5) sheets of replacement drawings, and the statement of unintentional delay as required by 37 CFR 1.137(b).

As authorized, the $1,500 petition fee has been charged to petitioner's deposit account.

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The Power of Attorney or Authorization of Agent filed June 3, 2005, has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 2644, 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

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JOSEPH LUCCI
WOODCOCK WASHBURN KURTZ
MACKIEWICZ & NORRIS
ONE LIBERTY PLACE 46TH FLOOR
PHILADELPHIA PA 19103

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of
Vikram Khetani et al
Application No. 09/283,645
Filed: April 1, 1999
Attorney Docket No. CELG-0119

ON PETITION

This is a decision on the petition, filed June 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 March 25, 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 1625 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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Beyer Weaver & Thomas, LLP
P. O. Box 70250
Oakland, CA 94612-0250

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Patent No. 6,832,253	:	
Issue Date: December 14, 2004	:	
Application No. 09/283,676	:	ON PETITION
Filed: April 1,1999	:	
Attorney Docket No. CISCP074	:	

This is a decision on the petition filed December 27, 2004, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is granted.

The 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) 272-3223. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Patent No. 6,224,626	:	
Issue Date: May 1, 2001	:	
Application No. 09/283,800	:	ON PETITION
Filed: April 1, 1999	:	
Attorney Docket No: **STEINKE.002C**	:	

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 2, 2007.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Paper No. 15

MAY 13 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE CA 92614-7230

In re Application of
Hidekazu TANIGAWA, et al.
Application No. 09/283,938
Filed: April 1, 1999
For: DATA COMMUNICATION SYSTEM, DATA TRANSMITTING APPARATUS, AND DATA RECEIVING APPARATUS

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is in response to the Petition for Withdrawal of Abandonment filed January 21, 2004, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

On February 27, 2003, a non-final Office action was mailed in the subject application. A response from Applicants was not received. On January 15, 2004, a Notice of Abandonment was mailed.

Petitioner alleges that the Office action of February 27, 2003 was not received.

Based on M.P.E.P. § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office Action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and,

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the subject application reveals that there was no irregularity in the mailing of the Office action since it was mailed to the address of record at that time. It is noted that a Change of Address was filed on October 10, 2003. However, the non-final Office action from which the current application became abandoned for failure to respond, was mailed on February 27, 2003, over seven months prior to the Change of Address Notification. Petitioner states that "(t)he undersigned attorney merged his practice into SNELL & WILMER LLP, in November 2002. A U.S. Postal Forwarding Address order was on file with the U.S. Postal Service, since November 2002. Since then we filed a Change of Correspondence Address for this patent application."

MPEP § 601.03 states in part:

> 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).

Petitioner did not promptly notify the Office of the change of correspondence address. Therefore, the petitioner has not made a sufficient showing of non-receipt of the non-final Office action mailed February 27, 2003 in accordance with the requirements set forth in MPEP §711.03(c) and 601.03, reproduced above.

Therefore, for the above reasons, the petition is **DENIED.**

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. Alternatively, petitioner may consider filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b).

The file is being returned to the Files Repository.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 18

SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE, CA 92614-7230

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JUL 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Tanigawa et al.	:	
Application No. 09/283,938	:	ON PETITION
Filed: April 1, 1999	:	
Attorney Docket No. 52478-1917	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 2, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed February 27, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on May 28, 2003. A Notice of Abandonment was mailed on January 15, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** 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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 9

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APR 16 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WHITMAN CURTIS & WHITMAN
RESTON INTERTNATIONAL CENTER
11800 SUNRISE VALLEY DRIVE
SUITE 900
RESTON VA 20191

In re Application of:
Shigeo Yoshihara
Application No. 09/283,970
Filed: April 2, 1999
For: PORTABLE TELEPHONE CAPABLE OF INCREASING FACILITY OF OPERATION

DECISION
ON PETITION

This is a decision on the petition filed September 17, 2002 to withdraw the holding of abandonment.

A Notice of Abandonment was mailed March 26, 2002 for failure to submit the issue fee in response to the Notice of Allowance mailed August 13, 2001.

Petitioner alleges that the Notice of Allowance and Allowability was not received.

Based on M.P.E.P. § 711.03(c) *[See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)]*, in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the Notice of Allowance 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 of Allowance on the part of the Patent and Trademark Office.

The allegation of non-receipt is supported by a statement by the practitioner attesting that the Notice of Allowance was not received and that a search of the contents of the file jacket and docket records reveal no evidence of receipt. Copies of the docket records have also been included and corroborate Petitioner's claim.

The showing offered complies with the requirements of a successful petition to withdraw the holding of abandonment due to non-receipt of an Office action as set forth above. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Accordingly, the petition is **GRANTED.**

A Notice of Allowability was mailed along with the Notice of Allowance. Since it has been established that the Notice of Allowance was not received, it is presumed that applicant also failed to receive the Notice of Allowability. The Notice of Allowance and Notice of Allowability originally mailed August 13, 2001 are vacated.

The application file will be forwarded to the Technology Center's technical support staff for issuing a new Notice of Allowance and Issue Fee Due and for re-mailing the Notice of Allowability. The period for response will be reset to run from the mailing date thereof.

Allen MacDonald

Allen R. 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. 18

U.S. Patent Operations TDZ
Amgen Incorporation
One Amgen Center Drive
Thousand Oaks, CA 91320-1799

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JUN 13 2002

OFFICE OF PETITIONS

In re Application of
Narhi et al.
Application No. 09/284,100
Filed: April 7, 1999
Attorney Docket No. A-423C

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed 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 August 14, 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 15, 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, the signature of Donald L. Zuhn 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. If Donald L. Zuhn desires to receive future correspondence regarding this application, an 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 will be directed solely to the address of record until otherwise instructed.

The application file is being forwarded to Technology Center 1600, Art Unit 1646, for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive
Chicago, IL 60606

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Paper No. 9

Greg T. Sueoka
FENWICK & WEST LLP
Two Palo Alto Square
Palo Alto, CA 94306

MAIL

MAR 2 6 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Michael De Angelo
Application No. 09/284,113
Filed: April 7, 1999
For: SYSTEM AND METHOD FOR CREATING AND MANIPULATING INFORMATION CONTAINERS WITH DYNAMIC REGISTERS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed January 24, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All future 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.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Michael De Angelo
Information Equity Corporation
100 South Sunrise Boulevard, Suite 470
Palm Springs, CA 92262

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Paper No. 12

MICHAEL DE ANGELO
INFORMATION EQUITY CORPORATION
100 SOUTH SUNRISE BOULEVARD, SUITE 470
PALM SPRINGS CA 92262

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SEP 03 2004

OFFICE OF PETITIONS
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SEP 21 2004
Technology Center 2100

In re Application of	:	
Michael DeAngelo	:	
Application No. 09/284,113	:	ON PETITION
Filed: 7 April, 1999	:	
Att'y Docket No. 3726-US	:	

This is a decision on the petition under 1.137(b),[1] filed on 10 August, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 12 May, 2003, for failure to timely submit a response to the non-final Office action mailed on 11 February, 2003, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 30 October, 2003.

There is no indication that petition 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.

The application file is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Fish & Richardson, P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

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 07 2000

Mary Rose Scozzafava
CLARK & ELBING
176 Federal Street
Boston, MA 02110

In re Application of	:
LEE, et al.	:
Application No.: 09/284,297	:
PCT No.: PCT/US97/18631	: DECISION ON PETITION
Int. Filing Date: 16 October 1997	:
Priority Date: 16 October 1996	: UNDER 37 CFR 1.48(a)
Attorney Docket No.: 04712/02000G	:
For: METHOD OF PREPARING A POORLY	:
CRYSTALLINE CALCIUM PHOSPHATE	:
AND METHOD OF ITS USE	:

This decision is in response to applicants' "REPLY TO NOTIFICATION OF A DEFECTIVE RESPONSE" and "PETITION TO CORRECT INVENTORSHIP PURSUANT TO 37 CFR 1.48(a)" filed 25 February 2000. The required fee of $130 under 37 CFR 1.17(i) for this petition has been submitted.

BACKGROUND

On 16 October 1997, applicants filed international application No.PCT/US97/18631 which claimed a priority date of 16 October 1996, and which designated the United States. The international application named Dosuk D. Lee, Christian Rey and Maria Aiolova as inventors. A Demand for international preliminary examination was filed on 15 May 1998, prior to 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee expired at midnight on 16 April 1999.

On 12 April 1999, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*, the requisite basic national fee, and a copy of the international application.

On 18 June 1999, applicants filed a combined declaration and power of attorney signed by Dosuk D. Lee, Christian Rey, Maria Aiolova and Aliassghar Tofighi.

On 01 February 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68. The notification set a one-month time limit to respond.

On 25 February 2000, applicants filed a "Reply to Notification of a Defective Response" and a "Petition to Correct Inventorship Pursuant to 37 CFR 1.48(a)" to add Aliassghar Tofighi as an inventors. Accompanied the petition, applicant filed: Notification of the Recording of a Change (Form PCT/IB/306); Petition To Correct Inventorship -- Consent of Assignee; Petition To Correct Inventorship -- Declaration of Inventor executed by Aliassghar Tofighi, Dosuk Lee; Christian Rey; and Maria Aiolova; Petition To Correct Inventorship -- Declaration of Inventor Agreeing to Correction executed by Aliassghar Tofighi, Dosuk Lee; Christian Rey; and Maria Aiolova; a combined declaration and power of attorney executed by Aliassghar Tofighi, Dosuk Lee; Christian Rey; and Maria Aiolova; and an assignment.

DISCUSSION

In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a petition under 37 CFR 1.48(a) or a showing that a 92bis change was made prior to the National stage filing is required. In the instant case, applicants have provided a Notification of the Recording of a Change (Form PCT/IB/306) indicating that Aliassghar Tofighi has been added as an inventor prior to entering into the national stage in the United States of America.

A review of the declarations filed on 13 July 1999 (and declarations thereafter) are defective and is therefore insufficient to satisfy the oath or declarations requirement of 35 CFR 371(c)(4) for entry into the national stage in the United States of America. Specifically, the declaration submitted includes two sheets numbered 2 of 3.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.48(a) is **DISMISSED** as moot. The petition fee under 37 CFR 1.17(i) has been refunded to Deposit Account No. 03-2095.

A proper response must be filed within **ONE (1) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.48(b)." No additional petition fee is required.

A proper response must include a proper declaration in compliance with 37 CFR 1.497 (a) and (b) executed by all of the named inventors.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel.: (703) 308-6314
Fax: (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

11 OCT 2000

Mary Rose Scozzafava
CLARK & ELBING
176 Federal Street
Boston, MA 02110

In re Application of	:	
LEE, et al.	:	
Application No.: 09/284,297	:	
PCT No.: PCT/US97/18631	:	DECISION
Int. Filing Date: 16 October 1997	:	
Priority Date: 16 October 1996	:	
Attorney Docket No.: 04712/02000G	:	
For: METHOD OF PREPARING A POORLY	:	
CRYSTALLINE CALCIUM PHOSPHATE	:	
AND METHOD OF ITS USE	:	

This decision is in response to applicants' "Renewed Petition Pursuant to 37 CFR 1.48(a)" filed 05 July 2000, accompanied by declaration and power of attorney executed by Dosuk Lee, Christian Rey, maria Aiolova, and Aliassghar Tofighi. Applicants' previous petitions under 37 CFR 1.48(a) was dismissed as moot in a decision dated 07 June 2000 because applicants provided a Notification of the Recording of a Change (Form PCT/IB/306) indicating that Aliassghar Tofighi had been added as an inventor prior to entering into the national stage in the United States of America. However, the declaration filed 07 June 2000 was insufficient to satisfy the oath and declaration requirements of 35 U.S.C. 371(c).

With the submission of the declaration and power of attorney executed by Dosuk Lee, Christian Rey, Maria Aiolova, and Aliassghar Tofighi, applicants have completed all the requirements of 35 U.S.C. 371 for entry into the national stage. This application will be given an international application filing date of 16 October 1997 and a date of **05 July 2000** under 35 U.S.C. 371 and 102(e).

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
Petitions Attorney
PCT Legal Office
Tel.: (703) 308-6314
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. ~~21~~ 22

Mary Rose Scozzafava
HALE AND DORR LLP
60 State Street
Boston, MA 02109

COPY MAILED
OCT 24 2002
OFFICE OF PETITIONS

In re Application of	:	
Dosuk D. Lee	:	
Application No. 09/284,297	:	ON PETITION
Filed: July 5, 2000	:	
Attorney Docket No. 04712/02000G	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 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 May 23, 2001, which set a shortened statutory period for reply of three (3) months. A three (3) months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on November 24, 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 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 1616.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Marianne Morgan for

Sherry Brinkley
Petitions Examiner

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ALEXANDRIA, VA 22313-1450
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OFFICE OF THE DIRECTOR
TC 3600

ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 66 EAST
SUITE B
TIJERAS, NM 87059

In re Application of
Wilhelm Geis, et al.
Application No. 09/284,311
Filed: April 26, 1999
For: SHAFT LOCKING DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition to withdraw the holding of abandonment filed in the United States Patent and Trademark Office (USPTO) on December 22, 2003.

The petition is **DISMISSED**.

Applicants' petition submits a statement that the this petition was originally filed with the Office May 4, 2001 and provides as evidence a copy of an Express Mail receipt with an express mail label on the copy of the original petition. The petition alleges that the Office action mailed December 1, 1999 was not received.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicants on December 1, 1999 and a Notice to that affect was mailed June 29, 2000.

The applicant submits that the Office action was never received by the applicant and provides copies of various computer screens and a file jacket cover related to this particular case and attest to the fact that a search of the file jacket and docket records indicates that the Office communication 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 (at the address of record at the time of mailing the Office action on December 1,1999, i.e., 11896 N. Highway 14, Suite B, Tijeras, NM 87059) with the due date of March 1, 2000. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). While meeting requirements (1) and (2) above the petitioner has failed to comply with requirement (3).

To satisfy requirement (3) above, a docket record showing all actions due by the **firm** of Robert W. Becker & Associates at and around the due dates of March 1, 2000, needs to be supplied. Since the address of record has changed apparently around the time of the mailing of the December 1, 1999 Office action, a statement, supported by evidence, is required as to when the address was in fact changed.

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.

Telephone inquiries relative to this decision should be directed to Special Programs Examiner Ken Dorner at (703) 308-0866.

Kenneth J. Dorner, Special Program Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 2/24/04

#10
DW

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 THE DIRECTOR
TC 3600

Robert W. Becker & Associates
707 Highway 66 East
Suite B
Tijeras, NM 87059

In re Application of
Wilhelm Geis et al.
Application No. 09/284,311
Filed: April 26, 1999
For: DRIVING 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 August 21, 2004.

The petition is **GRANTED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicants on December 1, 1999 and a Notice to that affect was mailed June 29, 2000.

Applicants' petition submits that the Office action was never received by applicants.

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 January 17, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petition filed March 3, 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 1, 2000. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53. Applicants further provided a statement that applicants' representative did not change office locations until December 2001, and therefore the petition is not based on an incorrect address.

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 Notice of Allowability and Notice of Allowance and Issue Fees Due based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/vdb: 10/4/04

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OFFICE OF THE DIRECTOR
TC 3600

Robert W. Becker & Associates
707 Highway 66 East
Suite B
Tijeras, NM 87059

In re Application of
Wilhelm Geis, et al.
Application No. 09/284,311
Filed: April 26, 1999
For: DRIVING DEVICE

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a supplemental decision on applicants' renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on August 21, 2004. This supplemental decision corrects the instructions in the final paragraph of a prior decision mailed from this Office on October 6, 2004.

The petition is **GRANTED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicants on December 1, 1999 and a Notice to that affect was mailed June 29, 2000.

The present petition contends that applicants never received the Office action.

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 January 17, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petition filed March 3, 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 1, 2000. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53. Applicants further provided a statement that applicants' representative did not change office locations until December 2001, and therefore the petition is not based on an incorrect address.

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 1, 1999, based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/rwg: 1/31/05

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper No. 12

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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

Lahive & Cockfield
28 State Street
Boston, MA 02109

In re Application of
Seishi Kato et al.
Application No. 09/284,320
Filed: June 21, 1999
Attorney Docket No. GIN-6705CPUS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice) mailed September 29, 1999. 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 October 30, 1999.

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 $1850 extension of time submitted with the petition on June 28, 2000 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The Associate Power of Attorney received June 28, 2000 has been accepted.

The application file is being forwarded to Technology Center 1600.

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 Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

7/24/00 REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/284320 2 Serial/Patent # _____

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	#10	6.28.00	$ 1850.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1850.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 12--0080

10 REASON:

	Overpayment
	Duplicate Payment
	No Fee Due (Explanation):

Extension of time filed after six-month statutory period from the date of the September 29, 1999 office action.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: _____ TITLE: PS

SIGNATURE: Latrice Bond PHONE: 308-6911

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Jessica Nguyen DATE: 7/25/00

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:

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:
Gordon	: DECISION ON PETITION
Application No. 09/284,421	:
Filed: June 11, 1999	:
Docket No.: NAGACO.076APC	:

This is a decision on the petition to revive the above-identified application under 37 CFR 1.137(a), filed January 29, 2008. This matter is also being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181. No fee has been charged in connection with this matter.

This application was held abandoned for failure to timely submit a proper reply to the Notice to File Corrected Application Papers (Notice) mailed October 16, 2007. The Notice set a two month period of time for reply. Notice of Abandonment was mailed January 11, 2008.

DECISION UNDER 37 CFR 1.181

Petitioners assert that the Notice was not received electronically and attribute the non-receipt to a problem with the electronic notification system.

A review of the application history, including the electronic notification system, supports a finding that although an email notification was sent to applicants on November 15, 2007, the Notice was not viewable to applicants in PAIR.

In view of the facts and circumstances concerning the transmission of the Notice, 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**.

DECISION UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(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).

In view of the withdrawal of the holding of abandonment, the petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application is being forwarded to the Office of Patent Publication for further processing, including review of the formal drawings submitted herewith.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

OCT 01 2001

Clark & Elbing LLP
176 Federal Street
Boston, MA 02110

In re Application of	:	
Dosuk D. Lee et al.	:	
Application No.: 09/284436	:	
PCT No.: PCT/US97/18528	:	
Int. Filing Date: 16 October 1997	:	DECISION
Priority Date: 16 October 1996	:	
Attorney's Docket No.: 04712/02000F	:	
For: Bioceramic Compositions	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.48(a)" filed on 08 June 2000, which is being treated under 37 CFR 1.497(d).

DISCUSSION

A grantable petition under 37 CFR 1.497(d) must be accompanied by: (1) 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; (2) an oath or declaration by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the petition fee set forth in 37 CFR 1.17(i); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.). The communication mailed on 27 April 2000 indicated that requirements (1) and (3) had been satisfied.

With respect to requirement (2), the declaration filed on 08 June 2000 satisfies the requirement.

Regarding requirement (4), the "Petition to Correct inventorship-- Consent of Assignee" and "Certificate Under 37 CFR 3.73(b)" provide the consent of Etex Corporation. However, it is not clear that Etex Corporation is currently the assignee of the entire interest in this application. Specifically, on 10 April 2000, a "Security Agreement" was recorded in the USPTO (at Reel/Frame number 010740/0718) which purports to grant a security interest in favor of Medtronic Asset Management, Inc. in a plurality of applications, including this application. However, the same "Security Agreement" indicates, on its last page, that the "Total number of applications and patents involved" is "One." Thus, the assignment status of this application is not clear. Petitioner is required to clarify the assignment status of this application and, if Etex is not the assignee of the entire interest, to provide the consent of any other assignee.

CONCLUSION

The petition under 37 CFR 1.497 (d) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)". No additional processing fee is required.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Boris Milef
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

02 OCT 2002

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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MaryRose Scozzafava, Ph.D.
Hale and Dorr LLP
60 State Street
Boston, MA 02109

In re Application of	:	
Dosuk D. Lee et al.	:	
Application No.: 09/284436	:	
PCT No.: PCT/US97/18528	:	
Int. Filing Date: 16 October 1997	:	DECISION
Priority Date: 16 October 1996	:	
Attorney's Docket No.: 04712/02000F	:	
For: Bioceramic Compositions	:	

This is a decision on applicants' "Petition Pursuant To 37 CFR § 1.137(b) To Revive An Unintentionally Abandoned Patent Application" filed on 29 July 2002, which is being treated under 37 CFR 1.181, 37 CFR 1.137(b) and 1.497(d).

DISCUSSION

Petition Under 37 CFR 1.181

As a preliminary matter, it is noted that the instant petition indicates that "a timely response was indeed filed on 27 November 2001, a copy of which is enclosed with this Petition." The petition is accompanied *inter alia* by a copy of the "Response Notice..." of 27 November 2001, which includes a Certificate of Mailing Under 37 CFR 1.8. 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 Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, or 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 transmission was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The instant submission satisfies requirements of 37 CFR 1.8(b)(1) and (2). However, the requirements of 37 CFR 1.8(b)(3) have not been satisfied because the statement included in the instant petition is on the part of Mary Rose Scozzafava, rather than by the party who signed the Certificate of Mailing (Michael Leccese); thus, it is not clear that the statement is made on the basis of first-hand knowledge. As such, it would not be appropriate to grant relief under 37 CFR 1.8(b) on the basis of the present record.

Petition Under 37 CFR 1.137(b)

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.

Regarding requirement (1), this application became abandoned with respect to the United States for failure to timely reply to the Decision mailed 01 October 2001. Applicants have filed the required reply in the form of a response to that Decision.

Regarding requirement (2), the petition includes authorization to charge the petition fee to counsel's Deposit Account, No. 08-0219.

Regarding requirement (3), the petition includes a statement that "the non-receipt by the PTO of the November 27, 2001 response was unintentional." This statement 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).

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

Petition Under 37 CFR 1.497(d)

A grantable petition under 37 CFR 1.497(d) must be accompanied by: (1) 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; (2) an oath or declaration by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (3) the petition fee set forth in 37 CFR 1.17(I); and (4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.). Requirements (1), (2) and (3) already have been satisfied.

Regarding requirement (4), the "Petition to Correct inventorship-- Consent of Assignee" and "Certificate Under 37 CFR 3.73(b)" already of record provide the consent of Etex Corporation. The instant petition is accompanied by a verified statement that Etex is the sole owner of the above referenced patent application. This verified statement is accepted in satisfaction of the requirement of the Decision mailed on 01 October 2001 to clarify the assignment status of this application and, if Etex is not the assignee of the entire interest, to provide the consent of any other assignee. As such, requirement (4) has now been satisfied.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.497 (d) is **GRANTED**.

Counsel's Deposit Account No. 08-0219 is being charged in the amount of $620.00 as the petition fee under 37 CFR 1.137(b), as authorized by the petition.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of the application under 35 U.S.C. 371 is **08 June 2000**.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
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SCHIFF HARDIN & WAITE
PATENT DEPARTMENT
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In re Application of WILHELM et al. Application No.: 09/284,563 PCT No.: PCT/DE97/02385 Int. Filing Date: 15 October 1997 Priority Date: 15 October 1996 Attorney's Docket No.: P-99,0610 For: ELECTOPHOTOGRAPHIC MACHINE WITH A DEVICE TO REMOVE OLD TONER	DECISION ON PETITION UNDER 37 CFR 1.181

This is in response to applicant's "PETITION UNDER 37 CFR 1.181" filed in the United States Patent and Trademark Office (USPTO) on 01 May 2000 alleging that applicant did not receive the Notification of Missing Requirements mailed on 12 May 1999.

BACKGROUND

A review of the application file reveals that the NOTIFICATION OF MISSING REQUIREMENTS was mailed by the USPTO on 12 May 1999. The notification indicated that an oath or declaration and surcharge had not been received. Applicant was given one month to respond to the Notification or until 12 June 1999, with extensions of time (up to 5 months) available under 37 CFR 1.135(a). No response to the Notification of Missing Requirements was received, and thus, the application was held to be **ABANDONED** as of midnight on 12 November 1999.

On 31 March 2000, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicant.

DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Items (1) and (2) are satisfied by the practitioner's statement that the Office action was not received by the practitioner and his statement attesting that a search of the file jacket and docket records indicated that the Office action was not received.

With regard to Item (3), applicant submitted a copy of the law firm's 12 June 1999 "docket record where the non-received Office Action would have been entered had it been received and docketed". In addition, a statement from Lynn Weidenfeller, who is the person that would have docketed the Office Action if it had been received, was submitted.

The docket record required is the record showing all responses docketed for the date a response was due (12 June 1999 in this case) indicating that there was no record of a response for the present application being due on that date. This docket record was attached to and referenced in practitioner's statement and indicates that the Notification of Missing Requirements was not received. Thus, applicant has provided the proper showing necessary to withdraw the holding of abandonment and the petition may be properly granted at this time.

Further, on 01 May 2000, along with his petition under 37 CFR 1.181, applicant filed a declaration executed by the inventors and the $130 surcharge for filing the declaration after the thirty month period. This is considered a response to the Notification of Missing Requirements.

CONCLUSION

For the reasons presented above, the Petition under 37 CFR 1.181 is **GRANTED**.

The 31 March 2000 Notification of Abandonment (Form PCT/DO/EO/909) is hereby **VACATED.**

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is 01 May 2000.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK:cmk

Telephone: (703) 306-5467
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UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6218393
Issue Date: April 17,2001
Application No. 09284642
Filed: June 9,1999
Attorney Docket No. 117-277

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed November 2,2006 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 November 2,2006 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6218393	2001-04-17	09284642	1999-06-09	117-277

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeff Nelson/	Date (YYYY-MM-DD)	2006-11-02
Name	Jeffry Nelson	Registration Number	30481

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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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SUITE 700
WASHINGTON, DC 20036

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AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Louis Rousseau	:	
Application No. 09/284,690	:	NOTICE
Filed: July 16, 1999	:	
Attorney Docket No. VANM107.001A	:	

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 application is being referred to Technology Center Art Unit 1764, to await the response to the final Office action mailed May 28, 2004.

Inquiries related to this communication should be directed to the undersigned at (703) 308-6711[1].

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]Inquiries after September 27, 2004, should be directed to (571) 272-3226.

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Paper No. 24

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

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MAY 21 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Takashi Sakakura	:
Application No. 09/284,736	:
Filed: April 19, 1999	:
Attorney Docket No. 2565-171P	:

This is a decision on the petition, filed May 20, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2141 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).

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OIPE 04-01

Paper No. 11

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MAY 08 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Emrich et al.
Application No. 09/284,787
Filed: August 16, 1999
Attorney Docket No. BMID 9913 US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on March 22, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on September 5, 2000 for failure to timely respond to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice to Comply"), mailed on August 4, 2000, which set a one (1)-month reply period. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed on March 20, 2001.

The instant petition includes a reply to the above Notice to Comply, namely, a "Sequence Listing" as required by 37 CFR 1.821(c), a copy of the "Sequence Listing" in computer readable form as required by 37 CFR 1.821(e), and a statement in accordance with 37 CFR 1.821(f) that the content of the paper and the computer readable copies of the "Sequence Listing" are the same. Also included in the instant petition is a statement that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3).

The petition fee of $1,240 has been charged to Petitioner's Deposit Account No. 02-2958 as authorized in the instant petition. Although Petitioner also authorized the charge of $1,890 to cover the fee for extension of time to respond to the Notice to Comply, 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 request for extension of time submitted with the instant petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and Petitioner's deposit account has not been charged for the amount of $1,890.

In response to the September 18, 2000 Power of Attorney, also enclosed with the instant petition, two additional attorneys, Kenneth J. Waite and Jill L. Woodburn, have been added to Petitioner's list of registered practitioners. Furthermore, Petitioner's correspondence address has been corrected to include "PO Box 50457."

This application is being forwarded to Technology Center 1645 for further examination.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

3 DEC 2000

Laura A. Coruzzi
Pennie & Edmunds LLP
1155 Avenue of the Americas
New York, NY 10036-2711

In re Application of:	:	
Wrigley et al.	:	DECISION ON
Application No.: 09/284806	:	
PCT No.: PCT/GB97/02907	:	PETITION UNDER
Int. Filing Date: 21 October 1997	:	
Priority Date: 21 October 1996	:	37 CFR 1.181, 1.137(a)
Attorney's Docket No.:117-284	:	
For: Cytokine Production Inhibitors	:	AND 1.137(b)

This is in response to the petition filed on 05 June 2000.

BACKGROUND

On 21 October 1997, applicant filed international application number PCT/GB97/02907, which designated the United States and claimed a priority date of 21 October 1996. The International Bureau transmitted a copy of the published international application to the United States Patent and Trademark Office on 30 April 1998. A Demand electing the United States was filed on 18 May 1998, which was prior to the elapse of 19 months from the priority date. Consequently, the period for payment of the basic national fee in the United States expired as of midnight on 21 April 1999.

On 21 April 1999, 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 surcharge under 37 CFR 1.492(e).

09 June 1999, 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) was transmitted to applicant, requiring the timely submission of and oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) in order to avoid abandonment of the application with respect to the United States.

On 06 January 2000, the DO/EO/US transmitted a Notification of Abandonment to applicant, indicating that the application was abandoned as to the United States for failure to timely respond to the requirements of the Form PCT/DO/EO/905 mailed on 09 June 1999.

Applicants filed the instant petition on 05 June 2000.

DISCUSSION

Petition to Withdraw Holding of Abandonment

The petition requests that the holding of abandonment be withdrawn on the basis that the Form PCT/DO/EO/905 of 9 June 1999 allegedly was never received. This petition is treated under 37 CFR 1.181.

As explained in MPEP 711.03(c), and following *Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971),* an adequate showing of non-receipt of papers mailed to applicant by the Office must include (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in petitioner's statement). A review of the totality of evidence now of record establishes that, within the practice under MPEP 711.03(c), petitioner has satisfied requirement (1), but has not satisfied requirements (2) and (3).

Regarding requirement (1), the petition includes an appropriate statement.

Regarding requirement (2), the petition includes a statement that "Attorneys for Applicants investigated the fileroom and mailroom records to determine whether Nixon & Vanderhaye, P.C. had ever received the Missing Requirement Notification." It is not clear that the alleged investigation of the "fileroom and mailroom records" specifically included the required "search of the file jacket and docket records". As such, it would be inappropriate to conclude on the basis of the present record that requirement (2) has been satisfied.

Regarding requirement (3), the petition is not accompanied by any relevant docket records.

For the reasons explained *supra*, it would be inappropriate to conclude that the instant petition provides a showing sufficient to grant the requested relief on the basis of alleged non-receipt of the Notification of Missing Requirements.

Petition Under 37 CFR 1.137(a)

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; (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.

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 USC § 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).*

Regarding requirement (1), the petition is accompanied by a declaration of the inventors, but the declaration is not acceptable because at least one sheet of the declaration is missing (there are two first sheets and two third sheets, but only one second sheet). Because at least one second sheet is missing, it is unclear whether each of the inventors signed a copy of the declaration which listed all of the other inventors. That is, it is possible that either some of the inventors signed a declaration that did not contain a second sheet, or that some of the inventors signed a declaration whose second sheet differed (e.g., from inadvertent errors) from the second sheet of record. Therefore, it would be inappropriate to accept the declaration of record.

Regarding requirement (2), the petition was accompanied by the required petition fee.

Regarding requirement (3), review of the records of the Office reveals no irregularity in the mailing of the Notification of Missing Requirements. In the absence of such irregularity, the burden is upon the party alleging non-receipt of the official correspondence to show that the entire delay in filing the required reply was unavoidable despite the exercise of the requisite diligence. In the instant petition, applicants' showing consists of conclusory statements to the effect that the Notification of Missing Requirements was not received, without any direct evidence (a) showing that the Notification was not received (as discussed *supra*) or (b) showing that the failure to respond occurred despite the exercise of the requisite

diligence on the part of petitioner. Specifically, petitioner has failed to show what measures were in place to ensure timely response to Office correspondence. Instead, the petition merely speculates that the failure to reply was the result of "either failure of the U.S. Patent and Trademark Office to duly mail the Missing Parts Notice [sic] or failure of the United States mail. The Attorneys for Applicants never received the Missing Requirement Notification when and if mailed" without providing any evidence germane to any of these possibilities. Thus, petitioner has not established that the delay in responding to the Notification of Missing Requirements was "unavoidable" within the meaning of 37 CFR 1.137(a).

Regarding requirement (4), no terminal disclaimer is required in this case because the international filing date of the instant application was after 08 June 1995.

For the reasons explained *supra*, it would be inappropriate to grant the petition under 37 CFR 1.137(a) on the basis of the present record.

Petition Under 37 CFR 1.137(b)

The petition alternatively requests consideration under 37 CFR 1.137(b). 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.

Regarding requirement (1), the petition is accompanied by a declaration of the inventors, but the declaration is not acceptable because at least one sheet of the declaration is missing (there are two first sheets and two third sheets, but only one second sheet). Because at least one second sheet is missing, it is unclear whether each of the inventors signed a copy of the declaration which listed all of the other inventors. That is, it is possible that either some of the inventors signed a declaration that did not contain a second sheet, or that some of the inventors signed a declaration whose second sheet differed (e.g., from inadvertent errors) from the second sheet of record. Therefore, it would be inappropriate to accept the declaration of record.

Regarding requirement (2), the petition was accompanied by the required petition fee.

Regarding requirement (3), the petition includes a statement that "the abandonment resulted from non-receipt of an office communication, and thus was unavoidable or unintentional." This statement 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).

Regarding requirement (4), no terminal disclaimer is required in this case because the international filing date of the instant application was after 08 June 1995.

For the reasons explained *supra*, it would be inappropriate to grant the petition under 37 CFR 1.137(b) on the basis of the present record.

DECISION

For the reasons explained above, the petition to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

SEP 2 6 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Laura A. Coruzzi
Pennie & Edmunds LLP
1155 Avenue of the Americas
New York, NY 10036-2711

In re Application of:	:	
Wrigley et al.	:	
Application No.: 09/284806	:	DECISION ON
PCT No.: PCT/GB97/02907	:	
Int. Filing Date: 21 October 1997	:	PETITION UNDER
Priority Date: 21 October 1996	:	
Attorney's Docket No.:117-284	:	37 CFR 1.137(b)
For: Cytokine Production Inhibitors	:	

This is in response to the petition filed on 07 June 2001, which requests reconsideration under 37 CFR 1.137(b).

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.

Regarding requirement (1), the renewed petition is accompanied by the required reply in the form of a satisfactory declaration of the inventors. Accordingly, all of the requirements of 37 CFR 1.137(b) have now been satisfied.

DECISION

For the reasons explained above, the petition is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for further processing. The date of this application under 35 U.S.C. 371 is **7 June 2001**.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 8

FAY SHARPE BEALL FAGAN
MINNICH & MCKEE
1100 SUPERIOR AVENUE
SEVENTH FLOOR
CLEVELAND, OH 44114-2518

COPY MAILED

FEB 1 1 2002

OFFICE OF PETITIONS

In re Application of :
Rolfe G. Petschek et al :
Application No. 09/284,828 :
Filed: April 21, 1999 :
Attorney Docket No. CWR 20242 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 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 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 June 22, 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 $435 extension of time submitted on September 25, 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.

The application file is being forwarded to Technology Center AU 1756.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 14, 2008

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No 09/285249 patent no7343614

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Andrew Koenig/ — **SPE**

2423 — **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
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SEP 0 9 2004
PATENT & TRADEMARK OFFICE

Paper No.

OBLON SPIVAK MCCLELLAND
MAIER & NEUSTADT P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

RECEIVED: 6-9-04
OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.
DOCKETING DEPT.
Initials/Date Docketed:
Type of Resp(s):
Due Date(s):

COPY MAILED

JUN 0 8 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of
Kazuki Taira et al
Application No. 09/285,269
Filed: April 2, 1999
Attorney Docket No. 0039-7158-2R0

This is a decision on the petition, filed June 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 27, 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 Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2675 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6082121
Issue Date: July 4,2000
Application No. 09285283
Filed: April 2,1999
Attorney Docket No. GRD0065.US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 29,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 29,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,082,121	2000-07-04	09/285,283	1999-04-02	GRD0065.US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Todd T. Taylor, Reg. No. 36945/	Date (YYYY-MM-DD)	2008-09-29
Name	Todd T. Taylor	Registration Number	36945

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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
Washington, D.C. 20231
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Paper No. 25

Tom Hunter
Quine IP Law Group, P.C.
PO Box 458
Alameda, Ca 94501

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Donna G. Albertson et al. :
Application No. 09/285,292 :
Filed: April 2, 1999 :
Attorney Docket No. 023070-09140 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to reply within the meaning of 37 CFR 1.113 in a timely manner in reply to the final Office action mailed September 27, 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) were obtained. Accordingly, the application became abandoned on December 28, 2002.

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.

This application is being forwarded to Technology Center AU 1642.

Telephone inquiries regarding this decision may be directed to the undersigned 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

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

QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Mail Date: 04/23/2010

Applicant	: DONNA G. ALBERTSON	: DECISION ON REQUEST FOR
Patent Number	: 7648826	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/285,292	: OF WYETH
Filed	: 04/02/1999	:
		:

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.

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)
6213201	2001-04-10	09285483	1999-04-02	4011-000AR

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/JiNan Glasgow/	Date (YYYY-MM-DD)	2009-06-25
Name	JiNan Glasgow	Registration Number	42585

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6213201
Issue Date: April 10,2001
Application No. 09285483
Filed: April 2,1999
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed June 25,2009 ,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 25,2009 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

BEST AVAILABLE COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-8-04

Paper No. #24

TO SPE OF : ART UNIT 2100

SUBJECT : Request for Certificate of Correction on Patent No.: 6704721

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Check Reconsideration

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.

- [x] Approved — All changes apply.
- [ ] Approved in Part — Specify below which changes do not apply.
- [ ] Denied — State the reasons for denial below.

Comments:

YES, The references printed on US Pat No. 6,704,721 are ~~[illegible]~~ provided in Paper #3 dated 01/02/01 in form PTO-892.

Anh Ly 09/22/04

JEAN M. CORRIELUS
PRIMARY EXAMINER

JEAN M. CORRIELUS
PRIMARY EXAMINER

4-21-06

John E. Breene
JOHN BREENE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2172
Art Unit

PTOL-306 (REV. 2/06)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,067,231	2000-05-23	09/285,642	1999-04-05	30119/01001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael J. Marcin/	Date (YYYY-MM-DD)	2008-09-30
Name	Michael J. Marcin	Registration Number	48198

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6067231
Issue Date: May 23,2000
Application No. 09285642
Filed: April 5,1999
Attorney Docket No. BHT/3111/20

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed September 30,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 30,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE Nathan Flynn

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/285,668

Paper No.: 0605

DATE : 5/12/05

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 6221763

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

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:

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 32

THOMAS J D'AMICO
DICKSTEIN SHAPIRO MORIN & OSHINSKY
2101 L STREET NW
WASHINGTON, DC 20037-1526

COPY MAILED

AUG 11 2003

OFFICE OF PETITIONS

In re Application of :
Garry A. Mercaldi et al :
Application No. 09/285,773 :
Filed: April 5, 1999 :
Attorney Docket No. M4065.165/P1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 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 July 16, 2002, which set a shortened statutory period for reply of one (1) month. A reply was received on July 31, 2002 but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 17, 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 AU 1765.

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

In re Patent No. 6134129
Issue Date: October 17,2000
Application No. 09285810
Filed: April 1,1999
Attorney Docket No. 57302-0016US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 27,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 27,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6134129	2000-10-17	09285810	1999-04-01	57302-0016US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marc S. Segal/	Date (YYYY-MM-DD)	2010-01-27
Name	Marc S. Segal	Registration Number	40163

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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
PO Box 1450
Arlington, VA 22313-1450
www.uspto.gov

Paper No. 24

Steven B. Samuels
Unisys Corporation
Unisys Way, MX/E8-114
Blue Bell, Pennsylvania 19424

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JUL 0 2 2003

OFFICE OF PETITIONS

ON PETITION

Issue Fee due 8/2/03

In re Application of :
Mark R. Treiber et al. :
Application No. 09/285,815 :
Filed: April 2, 1999 :
Attorney Docket No. TN139 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2003, revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the issue fee and formal drawings in a timely manner in reply to the Notice of Allowance/Notice of Allowability mailed February 12, 2002, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 13, 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.

This application is being forwarded to the Publishing Division.

Telephone inquiries regarding this decision may be directed to the undersigned at (703) 308-6911.

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: blank Issue Fee Transmittal Form

Received
JUL 0 7 2003
Patent Department

Received from < 215 > at 7/30/03 4:24:55 PM [Eastern Daylight Time]

OIPE JC16 JUL 30 2003 PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket: TN139

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No:	09/285,815
Applicant:	Mark R. Treiber et al.
Filed:	April 2, 1999
Title:	FASTENER ASSEMBLY FOR PIVOTAL ENGAGEMENT OF ADJACENT COMPONENTS
TC/A.U.:	3629
Examiner:	David Bochna
Notice of Allowance Mail Date:	February 12, 2002
Confirmation No.:	4186
Docket No.:	TN139

RESPONSE TO THE DECISION ON THE PETITION

Commissioner for Patents
MAIL STOP ISSUE FEE
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Decision on the Petition mailed July 2, 2003 (copy enclosed), the response to which is due August 2, 2003, Applicants timely submit the completed PTOL-85B form.

Please charge **Deposit Account No. 19-3790,** $1,303.00, for payment of the issue fee and 1 advance copies of the issued patent. Please charge any additional fees required or to credit any overcharge to the same deposit account.

July 30, 2003

Respectfully submitted,

Mark R. Treiber et al.

By: _____
Lise A. Rode
Registration No. 37,226
Attorney for the Applicants

UNISYS CORPORATION
Unisys Way, MS/E8-114
Blue Bell, Pennsylvania 19424
(215) 986-5169
(215) 986-3090 Fax

Received from < 215 > at 7/30/03 4:51:18 PM [Eastern Daylight Time]

OIPE JC16 JUL 30 2003 PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket: TN139

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No:	09/285,815
Applicant:	Mark R. Treiber et al.
Filed:	April 2, 1999
Title:	FASTENER ASSEMBLY FOR PIVOTAL ENGAGEMENT OF ADJACENT COMPONENTS
TC/A.U.:	3629
Examiner:	David Bochna
Notice of Allowance Mail Date:	February 12, 2002
Confirmation No.:	4186
Docket No.:	TN139

Commissioner for Patents
MAIL STOP ISSUE FEE
P. O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF TRANSMISSION VIA FACSIMILE UNDER 37 CFR 1.6(a)(3) TO THE OFFICE OF PUBLICATIONS, ISSUE FEE DEPARTMENT, IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this Response To The Decision on the Petition mailed July 2, 2003 and Form PTOL-85B (in duplicate) in the above-identified patent application, along with any paper referred to as being attached or enclosed, and payment of **$1,303.00** for the Issue Fee and 1 soft copy, charged to **Deposit Account No. 19-3790** is being telefaxed to the Office of Publications at telefax number **703-746-4000** on **July 30, 2003.**

Michele G. McDevitt
(Print Name)

Michele G McDevitt
(Signature)

5 Sheets inclusive

Received from < 215 > at 7/30/03 4:51:18 PM [Eastern Daylight Time]

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6251354
Issue Date: June 26,2001
Application No. 09285927
Filed: April 2,1999
Attorney Docket No. 08CU-5771

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 5,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6251354	2001-06-26	09285927	1999-04-02	08CU5771-2-US-NP

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Diderico van Eyl/	Date (YYYY-MM-DD)	2009-08-05
Name	Diderico van Eyl	Registration Number	38641

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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. 6
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SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

JOHN PALMER
LADAS & PARRY
5670 WILSHIRE BOULEVARD
SUITE 2100
LOS ANGELES , CA 90036-5679

In re Application of
WU, SHIN-TSON, *et al.*
Application No. 09/285,937
Filed: 04/02/1999
For: DOPANTS FOR LIQUID-CRYSTAL DEVICES

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the Petition Under 37 C.F.R. §1.47(a) filed on August 3, 1999.

HISTORY

The above-identified application was filed on April 2, 1999 naming and as joint inventors Shin-Tson Wu, Seth Marder, and Qing T. Zhang. However, the declaration was not signed by all of the inventors. Accordingly, a notice to file missing parts (hereinafter "the notice") was mailed to the address of record on May 4, 1999.[1] Petitioner then filed this response to the notice (which included payment of the deficient fees, a request for a month extension of time, and this petition) on August 3, 1999.

LAW

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(l) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under §1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the Official Gazette. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with §1.63.

ANALYSIS

As noted in the rule above, proof of the pertinent facts surrounding Petitioner's inability to locate absent joint inventor(s) must be supplied with a petition under Rule 1.47. To further elaborate upon the meaning of that requirement, Petitioner is urged to note the M.P.E.P. 409.03(d) (Proof of Unavailability or Refusal), which states:

> "Where inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts

[1] The statutory filing fee was missing as well.

> should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made...[t]he affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions." *Emphasis added.*

Nothing within the meaning of the above reference has been included with this petition. Therefore, Petitioner cannot be said to have satisfied the requirement of Rule 1.47 of supplying a declaration "accompanied by a petition including proof of the pertinent facts."[2]

This petition is accordingly *dismissed*.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to Petitions Attorney Scott Ledford at (703) 306-5593.

Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

[2] 37 C.F.R. §1.47(a).

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United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

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OFFICE OF PETITIONS
A/C PATENTS

JOHN PALMER
LADAS & PARRY
5670 WILSHIRE BOULEVARD
SUITE 2100
LOS ANGELES , CA 90036-5679

In re Application of
WU, SHIN-TSON, *et al.*
Application No. 09/285,937
Filed: 04/02/1999
For: DOPANTS FOR LIQUID-CRYSTAL DEVICES

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(a)

This is in response to the Petition Under 37 C.F.R. §1.47(a) filed on September 5, 2000.

The above-identified application was filed on April 2, 1999 naming and as joint inventors Shin-Tson Wu, Seth Marder, and Qing T. Zhang. However, the declaration was not signed by all of the inventors. Accordingly, a notice to file missing parts (hereinafter "the notice") was mailed to the address of record on May 4, 1999.[1] Petitioner then filed this response to the notice (which included payment of the deficient fees, a request for a month extension of time, and a petition) on August 3, 1999. The petition was dismissed in a decision dated July 21, 2000. This reply followed on September 5, 2000.

This reply is the properly executed declaration and power of attorney, which makes this petition moot. Therefore, this petition is **DISMISSED AS MOOT.**

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

[1] The statutory filing fee was missing as well.

Telephone inquiries related to this decision should be directed to Petitions Attorney Scott Ledford at (703) 306-5593.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 11/12

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FEB 24 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

CORPORATE PATENT COUNSEL
U.S. PHILIPS CORPORATION
580 WHITE PLAINS ROAD
TARRYTOWN, NY 10591

In re Application of:
Leyten, et al.
Application No. 09/286,027
Filed: April 5, 1999
For: PORTABLE COMMUNICATION DEVICE ARRANGED FOR STATE-DEPENDENTLY CONTROLLING NON-UNIFORM SELECTION PATTERNS AMONG POSSIBLE ANTENNA DIRECTIVITY CONFIGURATIONS

ON PETITION

This is a decision on the petition filed November 6, 2002, to withdraw the holding of abandonment.

A Notice of Abandonment was mailed September 30, 2002 for failure to timely submit a response to the non-final Office action mailed October 24, 2001 and subsequently re-mailed November 8, 2001.

Petitioner alleges that the Office action mailed October 24, 2001 was not received and that the re-mailing of November 8, 2001 was incomplete.

Based on MPEP□ 711.03(c), in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The petitioner has complied with all the requirements above. Accordingly, the petition is **GRANTED.**

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application file will be forwarded to the Technology Center's technical support staff to re-mail the non-final Office action and to restart the period for response.

Allen MacDonald

Allen R. MacDonald, 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.go

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of	:
Miller et al.	:
Application No. 09/286,043	:
Filing Date: April 5, 1999	: Decision on Petition for
Attorney Docket No.: 1634.001	: Patent Term Extension
For: DATABASE SEARCH IN	:
DISTRIBUTED COMPUTER SYSTEM ON	:
PORTION OF REMOTE DATABASE	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Request to Recalculate Determination of Patent Term Extension Under 37 CFR 1.701(a)(3)," received on December 3, 2007. 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 because the Panel Remand is a 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 April 30, 2001. On July 16, 2002, 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

[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).

period of delay in the above-identified application is the period beginning on April 30, 2001, the date that the Notice of Appeal was filed and ending on July 16, 2002, the date of the remand by a panel of the BPAI, which is a final decision in favor of the applicant. Three years after the earliest effective filing date of the application is April 5, 2002. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the first period of extension is **103-days**, the period from April 5, 2002 to July 16, 2002, 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 **103 days**.

Petitioner's deposit account has not been charged a petition fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
09/286,043	04/05/1999	ANDREA M. SCHNEITER	1634.001	4469

23405 7590 05/07/2008
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

EXAMINER
COLBERT, ELLA

ART UNIT	PAPER NUMBER
3624	

MAIL DATE	DELIVERY MODE
05/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

MAY 06 2008

TECHNOLOGY CENTER 3600

Heslin Rothenberg Farley & Mesiti PC
5 Columbia Circle
Albany, NY 12203

In re Application of
Andrea M. Schneiter et al.
Application No. 09/286,043
Filed: April 5, 1999
For: **DATABASE SEARCH IN DISTRIBUTED COMPUTER SYSTEM ON PORTION OF REMOTE DATABASE**

DECISION ON PETITION TO EXPUNGE FILED UNDER 37 CFR 1.59(b)

This is a response to the petition under 37 CFR 1.59(b), filed April 16, 2002, to expunge information from the above identified application.

The petition is **DENIED**.

Petitioner requests that the Reply Brief Noted, filed April 2, 2002, be expunged from the record prior to consideration by the Board of Patent Appeals and Interferences (BPAI).

On July 19, 2002, the BPAI remanded the case to the examiner because it determined that the Reply Brief Noted constituted an inappropriate Supplemental Examiner's Answer. In response to the remand, the Supplemental Examiner's Answer was withdrawn and prosecution reopened. Subsequently, a Notice of Allowability was issued on October 1, 2004, and has matured into Patent Number 7,356,533.

The petition is denied because the Reply Brief Noted is considered material to the patentability of the claims.

Any questions regarding this letter should be directed to Supervisory Patent Examiner Thomas Dixon at (571) 272-6803.

Katherine Matecki

for Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WC/td: 4/24/08

72

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. 6072384
Issue Date: June 6,2000
Application No. 09286504
Filed: April 6,1999
Attorney Docket No. 99-031537

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 8,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 8,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6072384	2000-06-06	09286504	1999-04-06	99-031537

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Adrian Don Baker/	Date (YYYY-MM-DD)	2008-10-08
Name	Adrian Don Baker		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

January 30, 2003

Roger T. Frost
Jones & Askew
2400 Monarch Tower
3424 Peachtree Rd., N.E.
Atlanta, GA 30326

In re application of:
Dr.-Ing Peter Amborn, et al
Serial No.: 09/286,524
Filed: April 6, 1999

DECISION ON PETITION

For: TUBULAR CONNECTION

This is a decision on the petition received on April 3, 2000, 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 April 28, 1999. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned July 1, 1999. The notice was mailed on March 16, 2000.

On April 3, 2000, the office received a communication from the attorney of record. Enclosed was an acknowledgment that the attorney responded to the Notice to File Missing Parts on September 30, 1999.

The evidence submitted is sufficient to establish that the petitioners responded to the Notice to File Missing Parts on September 30, 1999.

The petition is hereby GRANTED.

The application has been completed for release to Technology Center 3752.

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

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. 9

JACK E. EBEL
PATENT DEPARTMENT
MARATHON OIL COMPANY
P. O. BOX 269
LITTLETON, CO 80160

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Joseph A. Zierolf
Application No. 09/286,650
Filed: April 6, 1999
Attorney Docket No. 200099 USA

ON PETITION

This is a decision on the petition under 37 CFR 1.313(b)(5), filed October 27, 2000, which is being treated as a petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee. See 1233 *Official Gazette* 54 (April 11, 2000).

The petition is GRANTED.

Petitioner requests that the application be withdrawn from issue to permit abandonment for consideration of an Information Disclosure Statement in a continued prosecution application (CPA) under 37 CFR 1.53(d).

The application is withdrawn from issue.

Petitioner is advised that the issue fee paid on July 26, 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 October 27, 2000.

Telephone inquiries should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 2700 for processing of the CPA.

Sherry D. Brinkley
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 May-05

LOUDEMILK & ASSOCIATES
P O BOX 3607
LOS ALTOS CA 94024-0607

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OFFICE OF PETITIONS

In re Application of	:	
Shirani et al.	:	DECISION ON PETITION
Application No. 09/286,679	:	
Filed: 1 April, 1999	:	
Atty Docket No. VN418RI	:	

This is a decision on the petition under 37 CFR 1.47(a) filed on 19 February, 2004, 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 1 April, 1999, the application was filed as an application for reissue of U.S. Patent No. 5,617,418.

2. On 27 July, 2001, an Office action in accordance with *Ex parte Quayle* (1935 C.D. 11, 435 O.G. 213), was mailed, setting a two (2) month shortened statutory period for reply.

3. On 19 February, 2005, an amendment and a supplemental declaration, signed only by joint inventor Brian Edem, was filed.

---

[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.

4. On 19 February, 2005, the present petition was also filed, whereby petitioners assert that joint inventor Ramin Shirani was sent a copy of the supplemental declaration (via e-mail), but has refused 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 obtain the signature of Ramin Shirani on the supplemental declaration in compliance with 37 CFR 1.175, and Mr. Shirani's oral refusal to sign the supplemental reissue declaration, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Shirani on the supplemental declaration filed on 19 February, 2005.

CONCLUSION

1. The petition is granted. The petition fee of $400.00 will be charged to counsel's deposit account, No. 50-0251.

2. The application is being forwarded to Technology Center 2666 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) 272-9282.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 12

Grant A. Johnson
IBM Corporation
Intellectual Property Law, Dept. 917
3605 Highway 52 North
Rochester, MN 55901-7829

MAIL

AUG 2 5 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Edward C. Prosser et al.
Application No. 09/286,862
Filed: April 6, 1999
For: INCORPORATING REGISTER PRESSURE INTO AN INLINING COMPUTER

DECISION ON PETITION UNDER 37 CFR §1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed 01 April 2004 under 37 CFR §1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the *Ex Parte Quayle* Action mailed 04 June 2003 (paper no. 9). A Notice of Abandonment was mailed 22 March 2004 (paper no. 10).

In support of the petition, Petitioner provides a copy of (1) an amendment transmittal, (2) an amendment in response to the *Ex Parte Quayle* Action dated 04 August 2003, and (3) a post card with a PTO stamp indicating receipt at the USPTO on 08 August 2003 of the aforementioned amendment.

M.P.E.P. §503 states:

> A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Petitioner has established that a response to the *Ex Parte Quayle* was filed on 04 August 2003. Thus, Petitioner has established that a response was timely filed and the Abandonment was the result of Office error in not matching the response to the application file.

The petition is **GRANTED**. The Notice of Abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center support staff for processing of the amendment. It is noted that Petitioner's deposit account no. 09-0465

was charged $130.00 for the petition fee on 01 April 2004. Since this is a no fee petition, the $130.00 will be refunded. After processing, the application will then be forwarded to the Examiner for appropriate action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (703) 305-9750.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

UNITED STATES 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 J. Jaro, Esq. MAR 11 2008
Chief Patent Counsel
Medtronic Vascular
3576 Unocol Place
Santa Rosa CA 95403

Re: Patent Term Extension
Application for
U.S. Patent No. 6,344,053

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. 6,344,053, (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-0426

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

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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.

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WASHINGTON DC 20037-3213

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Pascal Agin et al :
Application No. 09/287,264 :
Filed: April 7, 1999 :
Attorney Docket No. Q053917 :

This is a decision on the petition, filed December 15, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 30, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2683 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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 11

MIKOHN GAMING CORPORATION
CHARLES MCCREA JR.
P O BOX 98686
LAS VEGAS NV 89193-8686

In re Application of: O. Vancura et al.
Application No. 09/287,556
Filed: April 6, 1999
For: REPLACEMENT BACCARAT TIE WAGER

DECISION ON PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition, filed May 11, 2001, requesting the holding of abandonment be withdrawn in the above-identified application. Due to the content of the petition it will be considered under 37 C.F.R. §§1.10(e) and 1.181.

This application was held abandoned for failure to timely file a proper reply to the Office action mailed October 11, 2000 (Paper No. 8). A Notice of Abandonment was mailed May 7, 2001 (Paper No. 9).

Petitioner states that a response was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard and a copy of an "Express Mail" receipt. Petitioner has also submitted a copy of the response.

Initially, M.P.E.P. § 503 states that "[a] post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." However, the copy of the postcard bears no date stamp.

37 C.F.R. §1.10 states in relevant part:

> (e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

Applicant has filed the petition promptly and the number of the "Express Mail" label was placed on the reply provided with the petition. The "Express Mail" receipt bears a "Date In" of January 11, 2001 and is postmarked the same day.

Applicant's request however is deficient in that it does not include a statement as per 37 C.F.R. §1.10(e)(4) indicating that the copies of the reply, the "Express Mail" receipt and any official notation entered by the USPS are true copies of the originally mailed reply, "Express Mail" receipt and official notation entered by the USPS.

Accordingly, the petition is **DENIED**. 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

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TECHNOLOGY CENTER 2100

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Paper No. 13

MIKOHN GAMING CORPORATION
CHARLES MCCREA JR.
P O BOX 98686
LAS VEGAS NV 89193-8686

In re Application of: O. Vancura et al.
Application No. 09/287,556
Filed: April 6, 1999
For: REPLACEMENT BACCARAT TIE WAGER

DECISION ON PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request for reconsideration filed January 9, 2002 from the decision mailed January 3, 2002 concerning the petition, filed May 11, 2001, requesting the holding of abandonment be withdrawn in the above-identified application.

The petition is **GRANTED**. Petitioner's submissions of January 9, 2002 and May 11, 2001 considered together, meet the applicable criteria. In particular, the submission filed January 9, 2002 included the statements as per 37 C.F.R. §1.10(e)(4) held as missing in the decision mailed Jaunary 3, 2002.

In view of the above stated reasons, the record is now clear that the application was not abandoned in fact and a Notice of Abandonment should not have been issued. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center support staff for entry of the copy of the amendment. The file will then be forwarded to the examiner for consideration.

John J. Love, Director
Technology Center 3600
Computer Architecture, Software,
& Electronic Commerce

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Paper No. 13

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MIKOHN GAMING CORPORATION
CHARLES MCCREA JR.
P O BOX 98686
LAS VEGAS NV 89193-8686

In re Application of: O. Vancura et al.
Application No. 09/287,556
Filed: April 6, 1999
For: REPLACEMENT BACCARAT TIE WAGER

DECISION ON PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the request for reconsideration filed January 9, 2002 from the decision mailed January 3, 2002 concerning the petition, filed May 11, 2001, requesting the holding of abandonment be withdrawn in the above-identified application.

The petition is **GRANTED**. Petitioner's submissions of January 9, 2002 and May 11, 2001 considered together, meet the applicable criteria. In particular, the submission filed January 9, 2002 included the statements as per 37 C.F.R. §1.10(e)(4) held as missing in the decision mailed Jaunary 3, 2002.

In view of the above stated reasons, the record is now clear that the application was not abandoned in fact and a Notice of Abandonment should not have been issued. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the Technology Center support staff for entry of the copy of the amendment. The file will then be forwarded to the examiner for consideration.

John J. Love

John J. Love, Director
Technology Center 3600
Computer Architecture, Software,
& Electronic Commerce

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LEGAL DEPT.

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Paper No. 27

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET NW
WASHINGTON, DC 20005

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OFFICE OF PETITIONS
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In re Application of :
John M. Eby et al :
Application No. 09/287,631 :
Filed: April 7, 1999 :
Attorney Docket No. 03063.0396-0 :

ON PETITION

This is a decision on the petition, filed February 7, 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 January 5, 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.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application is being forwarded to Technology Center AU 1732 for processing of the request for continued examination under 37 CFR 1.114.

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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Paper No. 34

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER
1300 I STREET NW
WASHINGTON DC 20005

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JUL 23 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of	:	
John M. Eby et al	:	
Application No. 09/287,631	:	ON PETITION
Filed: April 7, 1999	:	
Attorney Docket No. 3063.0396-02	:	

This is a decision on the petition, filed June 20, 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 June 8, 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.

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

The application is being forwarded to Technology Center AU 1732 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6150933	2000-11-21	09287638	1999-04-07	M780 0001/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
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/HiltonWCSue/	Date (YYYY-MM-DD)	2009-04-22
Name	Hilton W.C. Sue	Registration Number	51325

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6150933
Issue Date: November 21,2000
Application No. 09287638
Filed: April 7,1999
Attorney Docket No. 255P1US

:
: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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No. 32

CHRISTOPHER J. RECKAMP
MARKISON & RECKAMP, P.C.
P.O. BOX 06229
WACKER DRIVE
CHICAGO, IL 60606-0229

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MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of
Kang et al.
Application No. 09/287,776
Filed: April 7, 1999
Attorney Docket No. 0100.9900270

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed August 11, 2003. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, this application became abandoned on January 12, 2004. A Notice of Abandonment was mailed on February 10, 2004.

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 $530.00 extension of time fee submitted with the petition on March 1, 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.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

The file is now being forwarded to Technology Center 2600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JOSEPH P. KRAUSE
VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C
222 N. LASALLE STREET
CHICAGO, IL 60601

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

#5

March 2, 2001

Patrick N. Burkhart
Burkhart & Burkhart
P.O. Box 1823
Whitefish, MT 59937

In re application of:
Otto et al DECISION ON PETITION
Serial No.: 09/292,041
Filed: April 15, 1999
For: WALKING BEAM ROLLER APPARATUS

This is a decision on the petition filed May 30, 2000, 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 April 23, 1999. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned on June 24, 1999. A notice of abandonment was mailed on March 16, 2000.

The evidence submitted is sufficient to establish that the petitioners did response to the Notice to File Missing Parts of Application mailed on June 21, 1999.

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.

Counsel must send in a copy of the response submitted on June 21, 1999 and select a method of payment to complete the above application. If counsel's submitted a check with the response of June 21, 1999 check to see if it was cashed by office. If the check was cashed submit copies of the canceled check with the response.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JAN 08 2007

OFFICE OF PETITIONS

In re Patent No. 6,267,400	:	
Issued: July 31, 2001	:	
Application No. 09/288,003	:	NOTICE
Filed: April 6, 1999	:	
Atty. Dkt. No. SPECBIC1.016A	:	

This is in response to the paper November 30, 2006 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the request, status as a Small Entity has been removed.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

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IRVINE, CA 92614

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MAR 15 2007
OFFICE OF PETITIONS

In re Patent No. 6,267,400	:	
Issued: July 31, 2001	:	
Application No. 09/288,003	:	NOTICE
Filed: April 6, 1999	:	
Atty. Dkt. No. SPECBIC1.016A	:	

This is in response to the paper November 30, 2006 under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed. This notice supplements the Notice mailed January 9, 2007.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

In accordance with the request, status as a Small Entity has been removed.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

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Paper No. 010904

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

JAN 15 2004

In re Application of Kazumasa OHSUMI Application No. 09/288,217 Filed: April 8, 1999 Attorney Docket No. 1185.1046	: : : : :	DECISION ON PETITION

This is a decision on the petition filed October 10, 2003, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is GRANTED.

A Final rejection was mailed on March 31, 2003, setting forth a three-month period of response.

Petitioner asserts that an Amendment, a Petition for a Three-Month Extension of Time, a Notice of Appeal and the corresponding fees were timely filed on September 30, 2003 as evidenced by copies of the Amendment, the Petition for a Three-Month Extension of Time, the Notice of Appeal and the postcard receipt indicating receipt of all papers in the Patent and Trademark Office on September 30, 2003.

The review of the application file reveals that the Amendment, the Petition for a Three-Month Extension of Time and the Notice of Appeal were received but not matched with the file at the time the examiner held the application abandoned. A review of the PALM database reveals that the Three-Month Extension of Time fee and a Notice of Appeal fee was paid on September 30, 2003. Consequently, the application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the Amendment and the Notice of Appeal. From there, it will be returned to the examiner for further prosecution.

The appeal brief is due 2 months from the mailing date of this decision. The time period for filing the appeal brief may be extended under 37 CFR 1.136.

Inquiries regarding this decision should be directed to Jose' G. Dees at (703) 308-4628.

Janice A Falcone

Janice A Falcone, 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, DC 20231
www.uspto.gov

Paper No. 16

MAIL

AUG - 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of:
Ferguson et al.
Application No. 09/288,229
Filed: April 8, 1999
For: **SYSTEM AND METHOD FOR ALWAYS ON VIRTUAL CONNECTIVITY IN A WIRELESS SYSTEM**

DECISION ON PETITION

This is a decision on the Petition filed April 23, 2003, which is being treated under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

A Notice of Abandonment was mailed February 26, 2003 for failure to timely respond to the Office action mailed March 15, 2002.

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 August 16, 2002. 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, August 16, 2002, 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 August 14, 2002 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 will be forwarded to the examiner for further action in due course.

Allen MacDonald

Allen R. MacDonald, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 6

Ostrolenk Faber Gerb & Soffen
1180 Avenue of the Americas
New York, NY 10036-8403

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DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Samir Kapoor, et al.	:	
Application No. 09/288,478	:	ON PETITION
Filed: April 8, 1999	:	
Attorney Docket No. P/3341-4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 8, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being forwarded to Technology Center 2600.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HONEYWELL INTERNATIONAL INC.
15801 WOODS EDGE ROAD
COLONIAL HEIGHTS, VA 23834

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OFFICE OF PETITIONS

In re Application of	:	
Edward Peter Socci, et. al.	:	
Application No. 09/288,589	:	ON PETITION
Filed: April 8, 1999	:	
Attorney Docket No. 30-4424	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed April 6, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned after midnight July 6, 2004.

In response, petitioner submitted with the instant petition an authorization to charge $1,330 for the petition to revive fee and $1,330 for the issue fee. As authorized, these fees have been charged to the listed deposit account contained in the instant petition.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition is **GRANTED**.

The application file is being referred to the Office of Publications for review of the nine (9) sheets of Formal Drawings filed April 21, 2004, containing Figures 1-9.

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

#11
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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MAR 21 2003

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MAR 21 2003

OFFICE OF THE DIRECTOR
TC 3600

Ralph E. Jocke
231 South Broadway
Medina, OH 44256

In re Application of
David T. Frederick
SERIAL NO: 09/288,685
FILED: April 9, 1999
FOR: MEDICAL CABINET WITH ADJUSTABLE DRAWERS

: DECISION ON PETITION
: UNDER 37 CFR §1.181

This is a decision on the petitions under 37 CFR §1.181 filed May 3, 2002 and August 28, 2002 for Withdrawal of Holding of Noncompliance with 37 CFR 1.192 (c).

The petitions are **DENIED**.

On December 26, 2001, applicants filed an unsigned Appeal Brief in response to the examiners non-final rejection of July 17, 2001. On March 5, 2002 the examiner found the Brief defective because it was unsigned and concurrently gave applicants a new non-final rejection. Applicants on March 14, 2002 responded with a signed Brief that addressed the original rejection of July 17, 2001 but failed to address the new non-final rejection of March 5, 2002. On July 11, 2002 the examiner again found the Brief defective because it failed to address the current rejection of March 5, 2002 as required by 37 CFR 1.191c. The rejection was concurrently made final on July 11, 2002.

As of this date the applicants have failed to timely correct the defective appeal brief. The appeal is therefore dismissed in accordance with 37 CFR 1.192d. Applicants have also failed to constructively respond to the outstanding rejection. It should be noted that the statutory period for response to the final rejection of July 11, 2002 expired on January 11, 2003.

The file is being forwarded to the examiner for Abandonment.

Robert Olszewski
Acting Director
Technology Center 3600
(703) 308-5183

dpw:1/29/03

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#24 DW

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OCT 31 2003

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OCT 31 2003

OFFICE OF THE DIRECTOR
TC 3600

Ralph E. Jocke
231 South Broadway
Medina, OH 44256

In re Application of
David T. Frederick
SERIAL NO: 09/288,685
FILED: April 9, 1999
FOR: MEDICAL CABINET WITH ADJUSTABLE DRAWERS

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

This is in response to applicant's petition filed in the Patent and Trademark Office on May 13, 2003 to Withdraw the Holding of Abandonment under 37 CFR 1.181. The delay in this decision is sincerely regretted.

The petition to Withdraw the Holding of Abandonment is **GRANTED**.

A review of the file indicates that on December 26, 2001, applicants filed an unsigned Appeal Brief in response to the examiners non-final rejection of July 17, 2001. On March 5, 2002 the examiner found the Brief defective because it was unsigned and concurrently set forth a new non-final rejection. Applicants on March 14, 2002 responded with a signed Brief that addressed the original rejection of July 17, 2001 but failed to address the new non-final rejection of March 5, 2002. On July 11, 2002 the examiner again found the Brief defective because it failed to address the current rejection of March 5, 2002. The rejection was concurrently made final on July 11, 2002. On August 28, 2002 applicant petitioned for Withdrawal of the Holding of Noncompliance. On March 21, 2003 the petition was denied.

The holding of abandonment in this application is hereby withdrawn and the rejections of March 5, 2002 and July 11, 2002 are hereby vacated.

The file is being forwarded to the examiner for an action on the merits

Robert J Oberleitner
Director, Technology Center 3600
(703) 308-1134

dpw/snm: 10/20/03

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Paper No. 14

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

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APR 0 1 2004

OFFICE OF PETITIONS

In re Application of
Macy et al.
Application No. 09/288,836
Filed: April 8, 1999
Attorney Docket No. 042390.P7032

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 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 May 16, 2003, and no extensions of time under the provisions of 37 CFR 1.136(b) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the above-identified application became abandoned on July 17, 2003. See MPEP 1215.04. A Notice of Abandonment was mailed on February 6, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

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.

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

cc: WILLIAM W. SCHAAL
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
3200 PARK CENTER DRIVE, #700
COSTA MESA, CA 96262

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

F. Lindsay Scott
The Law Office of F. Lindsay Scott
Suite 102
14651 Dallas Parkway
Dallas, Texas 75240-7477

In re application of	:	DECISION ON
Steve Ingistov	:	PETITION TO
Serial No. 09/288,943	:	MAKE SPECIAL
Filed: April 9, 1999	:	

This is a decision on the petition, filed March 2, 2001, to make special under 37 CFR 1.102(c) or alternatively under 37 CFR 1.607(d).

With regard to the petition to make special under 37 CFR 1.102(c), applicant has failed to provide a statement explaining how the invention contributes to either (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources as set forth in MPEP 708.02 VI.

Since the requirements of 37 CFR 1.102(c) and MPEP 708.02, VI have not been met, the petition is dismissed with regard to this matter.

With regard to handling the application with special dispatch as to the interference, a review of the file indicates that the examiner has worked on the application in a reasonable time frame. The fact that the interference has not been declared does not necessarily mean that the case has not been handled with special dispatch. The examiner's position is that petitioner failed to claim the same invention within one year from the issue date of the patent. Petitioner's avenue for relief is by appeal. It is noted that the petitioner has filed his appeal brief.

Since petitioner is still seeking to provoke an interference, the request for the application to be handled with special dispatch is granted.

The application will be forwarded to the examiner for an action on the merits.

Any request for reconsideration of this decision with regard to the petition to make special under 37 CFR 1.102(c) 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 1.102(c)."

Richard A Bertsch

Richard Bertsch
Director
Technology Center 3700
Phone: (703) 308-0975
Fax: (703) 305-7764

MAILED

MAR 26 2001

Director's Office
Group 3700

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SEP 2 4 2002

Director's Office
Group 3700

Law Office of F. Lindsey Scott
2329 Coit Road, Suite B
Plana, TX 75075

Paper No. 18

In re Application of
INGISTOV, STEVE
Application No.: 09/288,943
Filed: April 09, 1999

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition filed April 17, 2001 to make special under 37 CFR 1.102(c).

Since the requirements of 37 CFR 1.102(c) and MPEP 708.02, VI have been met, the petition is granted.

The application is being forwarded to the examiner for an action on the merits.

Linda J. Sholl
Special Program Examiner
Technology Center 3700
Phone: (703) 308-1288

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Paper No. 18

Kevin L. Russell
Chernoff, Vilhauer, McClung & Stenzel, L.L.P.
1600 ODS Tower
601 SW Second Ave
Portland, OR 97204

MAILED

AUG 23 2002

OFFICE OF DIRECTOR
GROUP

In re Application of:	:	
Sampsell *et al.*	:	NOTICE OF WITHDRAWAL
Application No. 09/289,327	:	FROM ISSUE
Filed: April 8, 1999	:	UNDER 37 CFR § 1.313(b)
Title: PROJECTION DISPLAY SYSTEM USING POLARIZED LIGHT	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 CFR § 1.313(b)(3).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquires should be directed to Supervisory Patent Examiner Georgia Epps at (703) 308-4883.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: 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
DIW 05-04

KEVIN L RUSSELL
CHERNOFF VILHAUER MCCLUNG & STENZEL L.L.P.
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204

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MAY 2 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Sampsell et al.	:	
Application No. 09/289,327	:	ON PETITION
Filed: 8 April, 1999	:	
Atty Docket No. KLR: 7146.021	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 26 March, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 1 December, 2002, for failure to file a proper reply to the non-final Office action mailed on 30 August, 2002, which set a three (3) month shortened

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has now filed an amendment as well as payment for an additional extension of time.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 12 February, 2004, was submitted more than six (6) months after the mailing date of the Office action mailed on 30 August, 2002, and therefore is unnecessary. The extension of time fee paid on 26 March, 2004, will be credited to counsel's deposit account, No. 03-1550 as authorized.

The application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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Paper No. 22

David B. Ritchie
D'ALESSANDRO & RITCHIE
P.O. Box 640640
San Jose, CA 95164-0640

MAILED

DEC 03 2004

Technology Center 2100

In re Application of:
Jack H. Chang
Application No. 09/289,435
Filed: April 9, 1999
For: APPARATUS AND METHOD FOR PROVIDING MULTIMEDIA MESSAGING BETWEEN DISPARATE MESSAGING PLATFORMS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed October 12, 2004.

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 filed October 12, 2004 meets all the requirements. 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.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Wilfred Lam
INNOVATIONS MANAGEMENT SCIENCES
970 Terra Bella Avenue, Suite 8
Mountain View, CA 94043

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID J COLE
E INK CORPORATION
733 CONCORD AVE
CAMBRIDGE MA 02138-1002

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of
Drzaic et al.
Application No. 09/289,507
Filed: April 9, 1999
Attorney Docket No. INK-039

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed November 14, 2005 to revive the above-identified application.

This petition is hereby **Dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. §704.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed April 11, 2005 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on July 12, 2005. A Notice of Abandonment was mailed on October 28, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks items (1). Although corrected drawings were submitted with the petition, the Draftsperson has objected to the drawings. Accordingly, corrected drawings are required. Please refer to the Notice of Draftsperson's Patent Drawing Review enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By 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
Petition Attorney
Office of Petitions

enclosure

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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DAVID J COLE
E INK CORPORATION
733 CONCORD AVE
CAMBRIDGE MA 02138-1002

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APR 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Drzaic et al.	:	
Application No. 09/289,507	:	DECISION ON PETITION
Filed: April 9, 1999	:	
Attorney Docket No. INK-039	:	

This is a decision on the renewed petition under 37 CFR §1.137(b), filed March 15, 2005 to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed April 11, 2005 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on July 12, 2005. A Notice of Abandonment was mailed on October 28, 2005. A petition was dismissed on January 27, 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

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P.O. Box 1450
Alexandria, VA 22313-1450
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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wiser, et al. :
Application No. 09/289,513 :
Filed: April 9, 1999 :
Attorney Docket No. MSFT-1701/303314.01 :
For: SECURE ONLINE MUSIC
DISTRIBUTION SYSTEM

This is a decision on the petition under 37 CFR 1.181, filed January 27, 2006 (certificate of mailing date January 25, 2006), requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to seek court review of the Board of Patent Appeals and Interferences Decision on Appeal within two months of the October 29, 2004 decision. The Office contended this application became abandoned on December 30, 2004. A Notice of Abandonment was mailed on February 28, 2005.

Petitioners argue that the application did not become abandoned because a RCE and amendment were filed on December 27, 2004, which was within the two month period for action. The correspondence is present in the application file.

The filing of a RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action, will result in the finality of the rejection or action being withdrawn and the submission being considered. Pursuant to 37 CFR 1.114 , a RCE and amendment with new claims is a proper follow-up submission, if made within two months of the Board decision.

The petition under 37 CFR 1.181 is **GRANTED** and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3626 for further examination.

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
Office of the Deputy Commissioner
for Patent Examination Policy

#17
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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JAN 14 2003

Office of the Director
Group 3600

FENWICK & WEST LLP
TWO PALO ALTO SQUARE
PALO ALTO, CA 94306

In re application of :
Richard W. Friesen :
Application No. 09/289,550 :
Filed: April 9, 1999 :
For: USER INTERFACE FOR ELECTRONIC :
TRADING SYSTEM :

DECISION ON REQUEST
FOR WITHDRAWAL OF
ATTORNEY

This is a decision on the request filed on October 17, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A), B) and C) above.

As to condition A), the request to withdraw as attorney is not signed by an attorney of record. Only Dana Rao and Robert R. Sachs have been given power in the original declaration/power of attorney.

As to condition B), the reason for the withdrawal is insufficient. Power of attorney was given by the inventor. They are therefore the client until documentation in the form of assignment papers or statement under 37 CFR 3.73(b) is provided.

As to condition C), less than 30 days remain in which to respond to the Office action mailed July 26, 2002.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866
Facsimile No.: (703) 605-0586

KD/dw: 01/10/03

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

SQUIRE, SANDERS & DEMPSEY L.L.P
600 HANSEN WAY
PALO ALTO CA 94304-1043

Paper No. 29

In re Application of FRIESEN ET AL.
Appl. No.: 09/289,550
Filed: April 09, 1999
For: USER INTERFACE FOR AN ELECTRONIC TRADING SYSTEM

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed November 3, 3003, to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a document entitled AMENDMENT AND RESPONSE, filed September 29, 2003 and received on October 2, 2003 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(h) has been charged to Deposit Account 05-0150.

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.

John J. Love, Director
Technology Center 3600
(703) 308-1020

Enclosure: Document entitled AMENDMENT AND RESPONSE dated October 2, 2003

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 9

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OFFICE OF PETITIONS
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MORRISON & FOERSTER
775 PAGE MILL ROAD
PALO ALTO CA 94304-1018

In re Application of
Allen et al.
Application No. 09/289,576
Filed: April 9, 1999
Attorney Docket No. 311772000600

DECISION GRANTING PETITION

This is a decision on the renewed petition under 37 CFR 1.10(d), filed November 23, 1999, requesting that the above-identified application be accorded a filing date of April 9, 1999, rather than the presently accorded filing date of April 10, 1999.

Applicants filed a petition for corrected filing date under 37 CFR 1.10(d) on August 30, 1999. This petition was dismissed on September 24, 1999 because the date on the Express Mail label EM056845428US was the date listed on the filing receipt. The deciding official found no evidence from the United States Postal Service (USPS) that an error occurred.[1]

With the instant petition, applicants contend that the above-identified application was deposited with the USPS on April 9, 1999 when an employee of the USPS picked up the package containing the application papers at petitioners' attorney's office. In support of this contention, petitioners provide a **legible** copy of the USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post which shows that a parcel bearing Express Mail Receipt No. EM056845428US was picked up by the USPS on April 9, 1999. The USPS Pickup Service Statement is signed by an employee of the USPS. The original application papers located in the official file bear the same Express Mail number as those transcribed on the USPS Pickup Service Statement. Based upon the date on the USPS Pickup Service Statement, petitioners argue that the USPS entered April 10, 1999 in the "date-in" box on the Express Mail Label in error and that the actual date of deposit for this application is April 9, 1999.

The Office finds the date entered on the USPS Pickup Service Statement to be persuasive evidence that this application was deposited with the USPS on April 9, 1999 and that the USPS incorrectly entered April 10, 1999 on the Express Mail Receipt.

Accordingly, the petition is **granted**.

No fee is associated with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **April 9, 1999.**

---

[1] A review of the August 30, 1999 petition reveals that the enclosed photocopy of the USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post is illegible.

Thereafter, the application will be returned to Examining Group 1600 for examination in due course.

Telephone inquiries specific to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

For

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6658108
Issue Date: December 2,2003
Application No. 09289700
Filed: April 9,1999
Attorney Docket No. 021223.0124

:

: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)
6,658,108	2003-12-02	09/289,700	1999-04-09	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

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	009898	Frame Number	0459
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 PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 14

COUDERT BROTHERS
333 SOUTH HOPE STREET
SUITE 2300
LOS ANGELES, CA 90071

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APR 05 2002

OFFICE OF PETITIONS

In re Application of :
James G. Hanko :
Application No. 09/289,785 :
Filed: April 9, 1999 :
Attorney Docket No. 843161-189 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 26, 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 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 November 14, 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 Request For Continued Examination (RCE) filed on March 26, 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 Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center 2600 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Brian M. Berliner
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, CA 90071-2899

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. 16

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JUL 23 2003

OFFICE OF PETITIONS

ON PETITION

Sean M. Fitzgerald, Esq.
1717 Parrott Drive
San Mateo, CA 94402

In re Application of
William Paul Wanker
Application No. 09/290,006
Filed: April 11, 1999
Attorney Docket No. 001

This is a decision on the petition under 37 CFR 1.137(a), filed April 2, 2003, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed April 24, 2002, which set a three (3) month statutory period for reply. No response was believed to have been received within the allowable period and the application became abandoned on July 24, 2002. A Notice of Abandonment was mailed January 27, 2003.

The instant petition was accompanied by a copy of the response to the non-final Office action showing a certificate of mailing under 37 CFR 1.8 dated September 11, 2002, albeit unsigned. A review of Office computer records reveals that a check in the amount of $200.00 was received on September 16, 2002, in order to obtain an extension of time within the second month to make the response filed September 11, 2002, timely. The evidence is convincing that the reply to non-final Office action was mailed on, or about September 11, 2002, and received by the Office, but subsequently misplaced.

The Change of Correspondence Address filed July 9, 2003, is noted and made of record.

The file is now being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010

Kenya A. McLaughlin
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, D.C. 20231
WWW.USPTO.GOV

DEC 13 2001

#18

BRENDA HERSCHBACH JARRELL
CHOATE HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MA 02109-2891

In re Application of	:
Howard B. Sosin et al	:
Serial No.: 09/290,029	: PETITION DECISION
Filed: April 9, 1999	:
Attorney Docket No.: 3238897	:

This is in response to applicants' petition under 37 CFR 1.181, filed April 9, 2001, requesting withdrawal of finality of an Office action.

A review of the file history is shows that this application was filed April 9, 1999, and contained claims 1-281. On March 3, 2000, the examiner mailed a restriction requirement to applicants dividing the claims into 40 different groups and requiring, depending on which group was elected, an election of species within the group. Applicants replied on April 6, 2000, electing Group 14, and the species of oligonucleotides containing CpG motifs as a specific factor encompassing a specific antigen, targeting agent, a dendritic cell as a specific pAPC and a liposome as a specific encapsulating device (claims 50-55, 60-61, 63-69, 79-98, 102-112, 115-117, 122-123, 125-127, 129, 136-157, 160-176 and 184-193) with traverse. The examiner treated the election as an election without traverse since no arguments for traversal were presented. The examiner also rejected the claims under 35 U.S.C. 112, second paragraph, and 35 U.S.C. 103(a) over various references.

Applicants replied on September 25, 2000, by amending claims 50, 89, 108, 116 and 161, and traversing the rejections of record. The amendment changed the preamble of at least some claims from "A method of modulating **an immune response to** an antigen..." to "A method of modulating **presentation of** an antigen..." The examiner then stated that claims 50-55, 60, 63-66, 79-81, 84-91, 94-97, 102-104 and 108, as amended, were now directed to an invention independent and distinct from the originally elected invention and were therefor withdrawn from consideration. The remaining claims were acted on and rejected under 35 U.S.C. 112, second paragraph, and 35 U.S.C. 103(a) for the reasons of record. The action was made Final.

Applicants replied on April 9, 2001, by proposing amendments to various claims, including revising the preamble of some amended claims to read as originally presented (modulating an immune response). The amendment was not entered as other amendments were proposed in other claims which raised new issues, as set forth in an Advisory Action mailed April 25, 2001.

The petition requesting withdrawal of Finality was filed with the amendment, but was not forwarded for decision until now. Applicants filed a Notice of Appeal on June 4, 2001.

DISCUSSION

Applicants object to the withdrawal of the above identified claims under prosecution and making of the Office action Final. Applicants acknowledge amendment of the claims as stated above, but contend that the method steps remained unchanged and that the claim scope overall remained unchanged. Applicants further argue that even if there are small minor differences in claim scope they would not make the original and amended claims patentably distinct.

A consideration of the claims and the amendments has been made. It appears that the preamble of the claim is necessary to lend meaning, life and vitality to the claims, and therefor is an integral and important limitation to the claim scope. The difference between "manipulation (modulation) of an immune system" and "manipulating (manipulating) an antigen presentation" is significant. While antigen presentation is an immune function, it need not be. Search of the amended claim would have to be extended from Class 424, as originally determined, to Class 435. Based on the difference in classification and scope, withdrawal of the claims by the examiner as being to an invention non-elected by original presentation/election was proper. Finality of the Office action was predicated on the remaining claims being rejected for the same reasons as in the previous Office action. The examiner's action is not considered to be improper or incorrect. Had the subsequent amendment presented the withdrawn claims in their original form they would likely have been rejected for the reasons previously presented had been entered.

DECISION

Applicants' petition is **DENIED.**

Applicants remain under obligation to file an Appeal Brief within the time period specified in 37 CFR 1.192 or take other appropriate action.

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..

Any request for reconsideration of this decision must be made within TWO MONTHS of the mailing date of this decision and should be addressed to the Office of Petitions.

Bruce M. Kisliuk
Director, Technology Center 1600

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Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 13

WOODCOCK WASHBURN KURTZ
MACKIEWICZ AND NORRIS
ONE LIBERTY PLACE
4TH FLOOR
PHILADELPHIA PA 19103

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AUG 2 3 2002

OFFICE OF PETITIONS

In re Application of :
Marcus Peinado et al :
Application No. 09/290,363 :
Filed: April 12, 1999 :
Attorney Docket No. MSFT-0035 :

ON PETITION

This is a decision on the petition, filed August 22, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 28, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2165 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

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OFFICE OF PETITIONS

Birch, Stewart, Kolasch & Birch
P.O. Box 747
Falls Church, VA 22040-0747

In re Patent No. 7,075,529	:	
Issue Date: July 11, 2006	:	
Application No. 09/290,608	:	NOTICE
Filed: April 13, 1999	:	
Attorney Docket No. LIN-2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 20, 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.

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.

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.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Joe McKinney Muncy
Muncy, Geissler, Olds & Lowe, PLLC
P.O. Box 1364
Fairfax, VA 22038-1364

UNITED STATES PATENT AND TRADEMARK OFFICE

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PETER N. LALOS
STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON, DC 20036

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of	:	
David Stutsman	:	
Application No. 09/290,777	:	DECISION ON PETITION
Filed: April 13, 1999	:	
Attorney Docket No. 20153	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fees on or before August 6, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 4, 2007. Accordingly, the date of abandonment of this application is August 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700.00, (2) the petition fee of $750.00, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 14

KILLWORTH GOTTMAN HAGAN & SCHAEFF LP
ONE DAYTON CENTRE
ONE SOUTH MAIN STREET SUITE 500
DAYTON, OH 45402-2023

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FEB 01 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of :
Hayek :
Application No. 09/291,227 : ON PETITION
Filed: April 13, 1999 :
Attorney Docket No. IAM 0467 PA :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 12, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on July 12, 2000 for failure to submit a proper reply to the final Office action mailed April 11, 2000, which set a three (3) month shortened statutory period for reply. No extensions of time for reply in accordance with 37 CFR 1.136(a) were obtained. The response filed June 14, 2000 did not place the case in condition for allowance as applicant was notified by way of Advisory Action mailed December 28, 2000. This decision precedes Notice of Abandonment.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the Continued Prosecution Application (CPA), filed January 12, 2001.

This application will be forwarded to Technology Center 1600 for further processing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Alesia M. Brown 703-305-0310.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6282730
Issue Date: September 4,2001
Application No. 09291229
Filed: April 13,1999
Attorney Docket No. 21954.00101

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 2,2007 ,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 February 2,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6282730	2001-09-04	09291229	1999-04-13	01126.P2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 M. Stainbrook/	Date (YYYY-MM-DD)	2007-01-05
Name	CRAIG M. STAINBROOK	Registration Number	45126

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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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OFFICE OF PETITIONS

Medlin & Carroll LLP
101 Howard Street Suite 350
San Francisco CA 94105

In re Patent No. 7,696,148	:	
Issue Date: April 13, 2010	:	
Application No. 09/291,656	:	DECISION ON PETITION
Filed: March 3, 1999	:	
Attorney Docket No. UM-03662	:	

This is a decision on the Request For Certificate Of Correction Of Patent For Applicants Mistake (37 CFR §1.323), filed May 27, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to identify "The Regents Of The University Of Michigan" as the correct assignee to the Title Page of the Patent via a Certificate of Correction.

The petition is **DISMISSED**.

Petitioner urges that the present Petition was submitted to identify "The Regents Of The University Of Michigan, Ann Arbor, MI (US)" on the previously submitted PTOL-85B and that such error was inadvertent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

A review of United States Patent and Trademark Office (USPTO) records reveals that assignment documents were recorded at Reel: 012665, Frame: 0809 on March 12, 2002. A recordation cover sheet (Reel: 012665/Frame: 0809) identifies inventor The Regents of the University of Michigan as the conveying party and Virocell Inc. as the receiving party. As such, the instant petition cannot be granted.

However, the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized.

Inquiries related this communication should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ___

DATE : ~~6/2/05~~ 7/25/07

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/291925 Patent No: 6693181 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ Approved — All changes apply.
- ☒ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: The proposed change to claim 9 (column 30) would alter the scope of the claim. The "pre-sequence is the pre-sequence of SEQ ID" is an undefined variable and is not analogous to the allowed claim language.

JEFFREY SIEW
SUPERVISORY PATENT EXAMINER
SPE

1645
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080925

DATE : September 25, 2008

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction on Patent No.: 6,190,897

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:

/Nashaat T Nashed/
Supervisory Patent Examiner.Art Unit 1652

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.
09/291,931	04/13/1999	Jay M. Short	09010/029003	2783

45975 7590 09/25/2008
VERENIUM C/O MOFO S.D.
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

EXAMINER
TUNG, PETER P

ART UNIT	PAPER NUMBER
1652	

MAIL DATE	DELIVERY MODE
09/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lynn Linkowski
Verenium Corporation
Intellectual Property Department

In re Patent No. 6,190,897 Kretz
Issue Date: February 20, 2001
Appl No.: 09/291,931
Filed: April 13, 1999
For: Correction of Inventorship

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed August 19, 2008, to correct inventorship under 37 CFR 1.324. The petition has complied with all the requirements under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
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

DATE: Septembre 24, 2008
TO: Certificates of Correction Branch
FROM: Nashaat T. Nashed
Supervisory Patent Examiner
Art Unit 1652, Technology Center 1600
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. US 6,190,897 as specified on the attached Certificate.

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. US 6,855,365
Patented: February 15, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Jay M. Short

/Nashaat T. Nashed/

Nashaat T. Nashed, Ph. D.
Supervisory Patent Examiner
Art Unit 1652
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **11/19/08**

TO SPE OF : ART UNIT **1644 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/292,053** Patent No.: **7,033,589**

Attn: Phuong Huynh

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

***ATTN: Ok to enter changes as requested in the COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: OK to enter. It looks like the Office printed the wrong version of the sequence listing in the issued patent. The correct version of the sequence listing should have been the latest one that was filed 7/22/04. Please replace the sequence listing in the patent with the sequence listing filed Oct 31, 2008, which is the same as the sequence listing filed 7/22/04. As such, no new matter is introduced and no scope and/or the meaning

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

of the claims have been changed. PNH

Eileen B. O'Hara 11/24/08

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 37

Ostrolenk, Faber, Gerb & Soffen
1180 Avenue of the Americas
New York, NY 10036-8403

MAY 1 0 2005

RECEIVED
JUL - 1 2005
U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

In re Application of:
Daniel M. Kinzer
Serial No.: 09/292,186
Filed: April 15, 1999
Attorney Docket No.: IR-1609 (2-1941)

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the "REQUEST FOR WITHDRAWAL OF NOTICE OF ABANDONMENT" filed on January 24, 2005. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a). There is no fee for this petition.

The petition is **GRANTED**.

On September 27, 2004, the Board of Patent Appeals and Interferences ("the Board") rendered a decision affirming the nonfinal rejection of all the claims pending in the application. On December 22, 2004, a Notice of Abandonment was mailed indicating that the application was abandoned in view of the decision by the Board rendered on September 27, 2004 and because the period for seeking court review of the decision had expired and there were no allowed claims.

Petitioner asserts that a Request for Rehearing was timely filed on November 29, 2004. To support this assertion, petitioner has submitted a copy of the Request for Rehearing and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the Request for Rehearing on December 2, 2004. The copy of the Request for Rehearing includes a Certificate of Mailing dated November 29, 2004. Thus, if the Request for Rehearing had been received it would have been timely under the provisions of 37 C.F.R. §§ 1.7(a) and 1.8(a).

A review of the application file record reveals that the above-identified Request for Rehearing having been acknowledged as being received in the USPTO on December 2, 2004 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that a postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. Accordingly, it is concluded that the Request for Rehearing was timely received but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed December 22, 2004 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the Request for Rehearing submitted with the petition on January 24, 2005 is accepted since the Request for Rehearing originally submitted is apparently lost. The application will be forwarded to the Board for decision on the Request for Rehearing.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

COPY MAILED
AUG 2 3 2006
OFFICE OF PETITIONS

In re Application of Kinzer :
Application No. 09/292,186 : Decision on Petition
Filing Date: April 15, 1999 :
Attorney Docket No. IR-1609 (2-1941) :

This is a decision on the petition under 37 CFR 1.181, filed October 14, 2005, to withdraw the holding of abandonment.

The petition is **granted.**

The Notice of Abandonment mailed September 15, 2005, is hereby withdrawn and vacated.

Facts:

On September 27, 2004, the Board of Patent Appeals and Interferences rendered a decision affirming the non-final rejection of all pending claims.

A Request for Rehearing was timely filed on November 29, 2004.

On August 17, 2005, the Board rendered a decision affirming the September 27, 2004 decision.

A Notice of Abandonment was mailed September 15, 2005. The Notice of Abandonment stated the application was abandoned "because the period for seeking court review of the decision has expired and there are no allowed claimed."

Discussion:

37 CFR 1.304(a)(1) states in part,

> If a request for rehearing or reconsideration of the decision is filed, ... the time for filing an appeal or commencing a civil action shall expire two months after action on the request.

The action on the Request for Rehearing was the decision issued August 17, 2005. Petitioner had until October 17, 2005, to file a proper paper to avoid termination of proceedings. Therefore, the Notice of Abandonment mailed September 15, 2005, was improper and is vacated.

Technology Center Art Unit 2811 will be informed of the instant decision. The October 17, 2005, petition to reopen prosecution pursuant to 37 CFR 1.198 will be considered by the Technology Center in due course.[1]

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

[1] Petitions under 37 CFR 1.198 to reopen or reconsider prosecution of a case after decision by the Board, where no court action has been filed, are decided by the Technology Center Director, MPEP § 1002.02(c).

UNITED STATES PATENT AND TRADEMARK OFFICE

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OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER BC V6B 1G1 CANADA

COPY MAILED

JUL 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Ronald Chi Hong Lee et al	:	
Application No. 09/292,365	:	DECISION ON PETITION
Filed: June 3, 1999	:	
Attorney Docket No.	:	
A363 0001/GNM		

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 2, 2006. A Notice of Abandonment was mailed on March 7, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of June 1, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 2142 for appropriate action in the normal course of business on the reply received February 27, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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#10

5/30/07

WENDEROTH LIND & PONACK
2033 K STREET NW SUITE 800
WASHINGTON DC 20006

In re Application of:
MINAMITANI, NORIO et al
Serial No.: ~~09/319,906~~ 09/292386 MY
Filed: Apr. 15, 1999
Docket: 761/99-2075
Title: LOOM RESTARTING METHOD

Withdrawal Holding of Abandonment

This is a decision on the petition to withdraw holding of abandonment, filed on Jul. 21, 2000 with a second request filed on Aug. 8, 2006.

The petition is **GRANTED.**

The application was held abandoned for failure to timely respond to the Office action mailed on Dec. 9, 1999, which set a three month shortened period for reply. Notice of abandonment was mailed on Jul. 18, 2000.

Petitioner asserts that a response to the Non-Final Office action was filed by facsimile transmission on Mar. 9, 2000. In support, petitioner has supplied a copy of a facsimile transmittal report indicating that the amendment was successfully transmitted. A copy of the amendment also contains a Certificate of Facsimile Transmission Under 37 CFR 1.8 dated Mar. 9, 2000, signed by registered patent attorney Michael S. Huppert.

As petitioner has provided convincing evidence that a timely reply to the Office action of Dec. 9, 1999 was timely filed by facsimile transmission on Mar. 9, 2000, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Jul. 18, 2000 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3765 for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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)
7039015	2006-05-02	09293009	1999-04-16	061607-1020

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SAH/	Date (YYYY-MM-DD)	2010-05-07
Name	Scott A. Horstemeyer	Registration Number	34183

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 7039015
Issue Date: May 2,2006
Application No. 09293009
Filed: April 16,1999
Attorney Docket No. 061607-1020

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 7,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 7,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6352698
Issue Date: March 5,2002
Application No. 09293111
Filed: April 16,1999
Attorney Docket No. ROC-1

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed April 20,2010 ,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 20,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6352698	2002-03-05	09293111	1999-04-16	ROC-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	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-04-20
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 20

KELLY L CUMMINGS
NALCO CHEMICAL COMPANY
PATENT & LICENSING DEPARTMENT
ONE NALCO CENTER
NAPERVILLE, IL 60563-1198

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JUL 1 5 2003
OFFICE OF PETITIONS

In re Application of :
E. Michael Kerr, et al. :
Application No. 09/293,163 : ON PETITION
Filed: April 16, 1999 :
Attorney Docket No. 5593 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 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 August 19, 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 application became abandoned on November 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 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 future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 1700, Art Unit 1713 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Timothy J. Keefer
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Chicago, IL 60606-1229

#12

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Mesoamerican Development Institute Corp.
669 Stevens St.
Lowell, MA 01851

Paper No. 11

MAILED

APR 30 2002

Director's Office
Group 3700

In re Application of
RAUDALES, RAUL
Application No.: 09/293,198
Filed: April 16, 1999

DECISION ON PETITION

This is a decision on petitioner's request filed July 25, 2001 to review the holding of abandonment, mailed January 2, 2001 for failure to respond to the Office Action of July 3, 2000.

A review of the file indicates that the original papers were received. A request for a three month extension of time and a response were timely filed on December 29, 2000.

In view of the above, the Notice of Abandonment mailed January 2, 2001 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner for appropriate action.

Summary: Holding of Abandonment Withdrawn.

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ARTHROCARE CORPORATION
ATTN: Matthew Scheele
7500 Rialto Boulevard
Building Two, Suite 100
Austin TX 78735-8532

MAILED
JUN 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Stephen M. BRUNELL et al.	:	
Application No. 09/293,231	:	ON PETITION
Filed: April 16, 1999	:	
Attorney Docket No. D-10	:	

This is in response to the petition under 37 CFR 1.183, filed June 16, 2009, which is being treated as petition requesting waiver of the requirements of 37 CFR 1.64.

The petition is **GRANTED.**

Petitioner has shown that the inability to again obtain the signature from the originally signing inventor Stephen M. Brunell is, not withstanding the exercise of reasonable care and diligence, due to circumstances beyond his control. Accordingly, the declaration submitted concurrently with the instant petition will be accepted.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-7099.

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
www.uspto.gov

Paper No. 9

DUKE W. YEE
CARSTENS YEE & CAHOON, LLP
PO BOX 802334
DALLAS, TX 75380

COPY MAILED

MAR 3 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Nagaraj	:	
Application No. 09/293,464	:	ON PETITION
Filed: April 15, 1999	:	
Attorney Docket No. RR2569	:	

This decision concerns the March 12, 2004 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned on September 6, 2002 for failure to timely respond to the June 5, 2002 non-final Office Action.

The instant petition encloses an amendment and the $1,330 petition fee, and states in effect that the entire delay in responding to the June 5, 2002 non-final Office Action from the due date until the filing of a grantable §1.137(b) petition was unintentional. The petition is thus granted.

The application file is being returned to Technology Center 2600 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
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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DUKE W. YEE
YEE & ASSOCIATES, P.C.
P O BOX 802333
DALLAS, TX 75380

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:
Alwarkurichi Padmana Nagaraj	: DECISION ON PETITION
Application No. 09/293,464	: UNDER 37 CFR 1.137(b)
Filed: April 15, 1999	:
Attorney Docket No. RR2569	:

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2004, to accept an unintentionally delayed payment of the issue fee.

The petition is **granted**.

This application became abandoned for failure to timely pay the issue fee on or before September 9, 2004, as required by the Notice of Allowance and Fee(s) Due mailed June 9, 2004.

The petition satisfies the requirements for a grantable petition in that the reply in the form of the issue fee of $1,330; the petition fee of $1,330; and the required statement of unintentional delay have been submitted. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Inquiries related to this communication 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 13

IPSOLON LLP
805 SW Broadway, #2740
Portland, OR 97205

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NOV 1 2 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Toshikazu Yomeyama	:	
Application No. 09/293,490	:	
Filed: April 15, 1999	:	
Attorney Docket No. 1113-011	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 3, 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 non-final Office action mailed January 30, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on April 31, 2003.

The application file is being forwarded to Technology Center AU 2612 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

NOTICE RE: CERTIFICATES OF CORRECTION

DATE : 5/22/03.

Paper No

TO : Supervisor, Art Unit 1600.

1642

SUBJECT : Certificate of Correction Request in Patent No.: 6509016.

A response to the following question is requested with respect to the accompanying request for a ce of correction.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should t patent read as shown in the certificate of correction? No new matter should be introduced, nor shou scope or meaning of the claims be changed.

PLEASE COMPLETE THIS FORM AND
RETURN WITH FILE, WITHIN 7 DAYS,
TO CERTIFICATES OF CORRECTION BRANCH - PK 3-915/922
PALM LOCATION 7580 - TEL. N0. 305-8309

THANK YOU FOR YOUR ASSISTANCE!

Note your decision by placing a check mark in the appropriate box below, indicating whethe changes requested in the Request for Certificate of Correction should be applied. Please specify wh changes should not be applied and indicate the reason(s) for denial, in the "Comments" section belo

☒ **YES** ☐ **NO**

☐ **Comments:** Please enter the Certificate of Correction. The Office printed the wrong number of Patent Term Adjustment days on the front of the patent. The correct determination is two days as requested by Patentees

Kery A Fries, OPLA attorney for Karin Ferriter

Supervisor

OPLA

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Steven R. Sprinkle, Esq.
Gray Cary Ware & Freidenrich LLP
100 Congress Avenue
Suite 1440
Austin, Texas 78701

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JAN 29 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Parlos et al.
Application No. 09/293,536
Filed: April 15, 1999
Attorney Docket No. ORAS1100-1

DECISION GRANTING PETITION

This is a decision on the Petition filed July 6, 1999, requesting that the above-identified application be accorded a filing date of April 15, 1999.

On April 15, 1999, the application was deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10. The filing included an unexcuted declaration.

On April 19, 1999, Initial Patent Examination Division mailed a Notice of Incomplete Application stating that a filing date had not been assigned to the application because pages 260-299 of the specification were missing and that filing date of the application would be the date of receipt of the missing pages of the specification.

In response on July 7, 1999, the present petition, including authorization to charge counsel's deposit account for the requisite petition fee, was filed. Petitioners argue that the specification was complete because the pages were not omitted but were inadvertently misnumbered. Petitioners request that the application be accorded a filing date of April 15, 1999.

A review of the record reveals that pages numbered 260-299 and 783 have not been located in the application file. However, the language of the specification is consistent with petitioners' assertion that no pages have been omitted, only that the pages were inadvertently misnumbered. Accordingly, the evidence is convincing that the application was complete on filing, although it contained misnumbered pages, and is entitled to a filing date of April 15, 1999.

In view of the above, the petition is granted.

The Notice mailed April 19, 1999 is hereby vacated.

Petitioners should amend the specification to renumber the pages consecutively and such amendment should be submitted prior to the first Office action to avoid delays in the prosecution of the application. See MPEP 601.01(d).

A further review of the record reveals that the application still does not include an oath or declaration in compliance with 37 CFR 1.63. Therefore, an oath or declaration in compliance with 36 CFR 1.63, identifying the specification to which it is directed (preferably by reference to the above-identified Application Number and filing date) is required. The surcharge under 35 CFR 1.16(e) is also required.

Applicants are given ONE MONTH from the date of this decision to file the oath or declaration and the surcharge required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136 (a). The response should be directed to the attention of the Office of Initial Patent Examination.

This application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 15, 1999, and to await the filing of the oath or declaration, and surcharge filed in response to the decision.

Telephone inquiries related to this decision should be directed to Kery Fries at (703) 308-0687.

M. A. Antonakas

Manuel Antonakas
Director of Petitions

kf

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. 12

WILLIAM N. HULSEY III
HUGHES & LUCE
1717 MAIN STREET
SUITE 2800
DALLAS, TX 75201

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AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Parlos et al.	:	
Application No. 09/293,536	:	ON PETITION
Filed: April 15, 1999	:	
Attorney Docket No. 13270:11	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 23, 2002, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply within one month to the Petition Decision mailed January 29, 2001. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on March 1, 2002.

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 $980.00 extension of time fee submitted with the petition on October 23, 2002 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 the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after September 28, 2004 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

ANSEL M. SCHWARTZ
ONE STERLING PLAZA
201 CRAIG STREET
SUITE 304
PITTSBURGH PA 15213

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SEP 06 2005

OFFICE OF PETITIONS

In re Application of
Ronald P. Bianchini
Application No. 09/293,563
Filed: April 15, 1999
Attorney Docket Number: FORE-43
Title: VERY WIDE MEMORY TDM SWITCHING SYSTEM

DECSION ON PETITION

This is a decision on the petition filed August 27, 2005, pursuant to 37 C.F.R. §1.137(a)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed December 23, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 23, 2004.

With the present petition, Petitioner has submitted the petition fee, a statement of facts, a Request for Continued Examination (RCE), the fee for the same, a copy of his docket report, an assertion that the final Office action was not received, and a statement that he has searched his office, the file jacket, and the contents thereof, and said final Office action was not located.

1 A grantable petition pursuant to 37 CFR §1.137(a) must be accompanied by:

(1) the required reply (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;
(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 (and fee as set forth in §1.20(d)) required pursuant to paragraph (d) of this section.

As such, the petition under 37 C.F.R. 1.137(a) is **GRANTED**.

Petitioner filed a Request for Continued Examination (RCE) under 37 C.F.R. §1.114, including a request for consideration of a concurrently submitted amendment and payment of the RCE fee. The RCE has been accepted as the required reply under 37 C.F.R. §1.137(a)(1).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/3/2008

TO SPE OF : ART UNIT **2616 (2600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/293,563** Patent No.: **7,031,330**

Attn: Steven Nguyen

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

*ATTN: Ok to enter changes to claims as requested in COCIN?

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

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: _____

2419

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)
6153005	2000-11-28	09293613	1999-04-16	MIRA-29,898

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 Jorgenson Reg. #34194/	Date (YYYY-MM-DD)	2010-03-22
Name	EDWARD JORGENSON	Registration Number	34194

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6153005
Issue Date: November 28,2000
Application No. 09293613
Filed: April 16,1999
Attorney Docket No. 1318(MIRACON

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 22,2010 ,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 22,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

MAR 17 2004 JC42 PATENT & TRADEMARK OFFICE

Det. Sec.

PTO/SB/83 (09-03)

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/293,669
Filing Date	April 16, 1999
First Named Inventor	Doleman, Brett
Art Unit	1743
Examiner Name	Handy, Dwayne K.
Attorney Docket Number	018564-002110US

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
JMStone
Jacqueline M. Stone, Director
Technology Center 1700
JUL - 6 2004

Please withdraw me as attorney or agent for the above identified patent application

☒ all the attorneys/agents of record

☐ all the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☐ all the attorneys/agents associated with Customer Number **20350**

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: at the request of Applicant

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ Customer Number

OR

☒ Firm or Individual Name	Foley & Lardner				
Address	3000 K Street, N.W.				
Address	Suite 500				
City	Washington	State	D.C.	ZIP	20007
Country	United States of America				
Telephone	202.672.5300	Fax	202.672.5399		
Name	Joseph R. Snyder				
Signature	Joseph R. Snyder	Registration No.	39,381		
Date	March 15, 2004				

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

60165965 v1

O.I.P.E. JC42 MAR 17 2004 PATENT & TRADEMARK OFFICE

PTO/SB/21 (08-03)

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/293,669
Filing Date	April 16, 1999
First Named Inventor	Doleman, Brett
Art Unit	1743
Examiner Name	Handy, Dwayne K.
Total Number of Pages in This Submission: 2	Attorney Docket Number: 018564-002110US

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)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response 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)
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

Return Postcard

Remarks: The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Townsend and Townsend and Crew LLP Joseph R. Snyder Reg. No. 39,381
Signature	
Date	March 15, 2004

CERTIFICATE OF TRANSMISSION/MAILING

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.

Typed or printed name	Marta R. Vanegas		
Signature	Marta Vanegas	Date	March 15, 2004

60165969 v1

APR 4 2001

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Paper # 18

FLEHR HOHBACH TEST
ALBRITTON & HERBERT LLP
SUITE 3400
FOUR EMBARCADERO CENTER
SAN FRANCISCO , CA 94111-4187

In re Application of	:
Joseph Fisher et al	:
Serial No.: 09/293,670	: PETITION DECISION
Filed: April 16, 1999	:
Attorney Docket No.: A-68104	:

This is in response to applicants' petition under 37 CFR 1.181, filed March 5, 2001, to withdraw the finality of the last Office action.

A review of the file history shows that the above identified application is a Continuation of SN 09/062,333 (sic - '330), and SN 09/157,748, both still pending. In a first Office action, mailed October 16, 1999, the examiner rejected claims 1-7 under 35 U.S.C. 112, first paragraph and claim 1 under the second paragraph for various reasons. Claims 8-10 were identified as improper multiple dependent claims and it was specifically stated that they would not be further treated on the merits. Claims 1-3, 5 and 6 were rejected for obvious double patenting over SN 09/062,330 and claims 1-7 were rejected for obvious double patenting over SN 09/157,748. Claims 1-4 and 7 were then rejected under 35 U.S.C. 102(a) in view of Noaln (sic - Nolan). Claim 3 was rejected under 35 U.S.C. 102(e) over Kamb. Claims 5-6 were rejected under 35 U.S.C. 103(a) over Noaln (sic - Nolan) or Kamb in view of Hide. Applicants replied on March 6, 2000, amending claims 1, 3, 5 and 7-9 and adding claims 11-14 which overcame the improper multiple dependency rejection. The other rejections were argued appropriately and submission of terminal disclaimers was indicated as being deferred until allowable subject matter was indicated.. The examiner mailed a Final Office action to applicants on July 5, 2000, maintaining the rejection of claims 1-7 under 35 U.S.C. 112, first paragraph. The rejections for obvious double patenting were also maintained as no terminal disclaimers had been submitted. Claims 1-4, 7-10 and 13-14 were also rejected under 35 U.S.C. 102(a) over Nolan as before. Claims 3, 8, 10 and 14 were rejected under 35 U.S.C. 102(e) over Kamb as before. Claims 5-6 and 11-12 were rejected under 35 U.S.C. 103(a) over Nolan or Kamb in view of Hide as before. On January 5, 2001, applicants replied to the Office action offering amendments to claims 1 and 3 and adding claims 15-16 and objecting to the finality of the last Office action as rejecting claims in a manner in which they had not been rejected before. The examiner refused entry of the amendment and set forth reasons therefor. Applicants then filed this petition requesting withdrawal of the finality of the Office action alleging that it is premature.

A review of the application as filed shows that it is a continuation of two earlier filed application which contain the same or similar claims as evidenced by the rejections for obvious double patenting. Applicants are thus familiar with drafting claims in applications filed in this Office and the proper presentation of multiple dependent claims. (It is not known whether proper or

improper multiple dependent claims were presented in the earlier application.) However, the presentation of improper multiple dependent claims is considered to have been an inadvertent error in claim drafting. The examiner followed approved Office practices when acting on the claims initially by rejecting them as improper and not considering them further on the merits. (Alternatively the examiner could have considered them on the merits and applied the appropriate prior art rejections to them to the extent they could be properly understood.) Applicants' amendments in reply to the Office action correcting the improper dependencies then required the examiner to act on the claims as appropriate. The rejections of now proper claims 8-10 were no different than the rejections over prior art previously set forth and therefor are considered to have raised no new issues not previously identified to applicants in the first Office action.

In view of the above, applicant's petition is **DENIED**.

The period for filing the Appeal Brief or taking other appropriate action remains at two months from Office receipt of the Notice of Appeal, January 12, 2001.

The amendment filed March 5, 2001 will be forwarded to the examiner for appropriate consideration following the mailing of this decision.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

Jasemine C. Chambers
Director, Technology Center 1600

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

JUL - 7 2000

Paper No. 7

In re Application of
Lynn A. Tentler *et al*
Application No. 09/293,858
Filed: April 16, 1999
Attorney Docket No. 084538.00700

: DECISION ON PETITION

This is a decision on the petition filed on June 13, 2000 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file formal drawings.

The petition is granted.

Petitioners allege that formal drawings were in fact filed, and that the filing was timely. In support of the timely filing petitioners have included a copy of the drawings, a copy of a post card receipt for the drawings evidencing receipt thereof in the Office on November 2, 1999, and a copy of Express Mail Label No. EL283353030US showing that the drawings were deposited as Express Mail on November 2, 1999.

The evidence clearly establishes that formal drawings were in fact filed on November 2, 1999, well within the three month shortened statutory period set by the Notice of Allowability dated August 30, 1999. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Office of Patent Publication for processing into a patent.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

JUDY KRUGER
BRACEWELL & PATTERSON LLP
711 LOUISIANA STREET
SUITE 2900
HOUSTON, TX 77002

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

M. AUTHUR AUSLANDER
AUSLANDER & THOMAS
505 EIGHTH AVENUE
NEW YORK, NY 10018

COPY MAILED

MAR 2 8 2003

OFFICE OF PETITIONS

In re Application of	:	
Suk-Song Oh	:	
Application No. 09/294,073	:	ON PETITION
Filed: April 19, 1999	:	
Attorney Docket No. 3598-6	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 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 January 3, 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 application became abandoned on April 4, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to Technology Center 3700, Art Unit 3732 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 17

John E. A. Earley III
Harding, Earley, Follmer & Frailey
86 The Commons at Valley Forge East
1288 Valley Forge Road, P. O. Box 750
Valley Forge, PA 19482-0750

COPY MAILED
JUL 21 2004
OFFICE OF PETITIONS

In re Application of :
William W. Hoffman :
Application No. 09/294,181 : ON PETITION
Filed: April 19, 1999 :
Attorney Docket No. E-1654CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 2800 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins
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)
6624405	2003-09-23	09294235	1999-04-19	LY-09003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/TWT/	Date (YYYY-MM-DD)	2009-09-22
Name	Thomas W. Tolpin	Registration Number	27600

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6624405
Issue Date: September 23,2003
Application No. 09294235
Filed: April 19,1999
Attorney Docket No. CMSI.003US0

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 22,2009 ,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 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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JAN - 3 2002

#16

DIKE, BRONSTEIN ROBERTS & CUSHMAN
INTELLECTUAL PROPERTY PRACTICE GROUP
EDWARDS & ANGELL
P .O. BOX 9169
BOSTON MA 02209

In re Application of :
Richard L. Huganir et al :
Serial No.: 09/294,298 :WITHDRAWAL OF ABANDONMENT
Filed: April 19, 1999 :
Attorney Docket No.: 48235(1699) :

This is in response to applicant's petition under 37 CFR § 1.181, filed August 30, 2001, requesting revival of the above-identified application based on timely filing of a response to an Office action. The delay in acting on this petition is regretted.

A review of the file history shows the examiner mailed an Office action to applicants on January 31, 2001, setting a three month shortened statutory period for reply. Upon failure to receive a reply a Notice of Abandonment was mailed to applicants on August 10, 2001. Applicants state that a reply was mailed to the Office on April 10, 2001, as stated in the appended Certificate of Mailing and as evidenced by an Office date-stamped postcard showing receipt by the Office on April 12, 2001. In view of the evidence presented it is concluded that applicants timely replied to the Office action. In view thereof the Notice of Abandonment is hereby withdrawn and the application restored to pending status with the mailing of this decision.

Applicant's petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there by any questions with regard 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

Best Available Copy

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AUG 05 2008

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/294,338
Filing Date	April 20, 1999
Issued	July 31, 2001
First Named Inventor	Takeshi FUKADA
Group Art Unit	2825
Examiner Name	Lex Malsawma
Total Number of Pages in This Submission: 9	Attorney Docket Number: 740756-1962

ENCLOSURES *(check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
  - ☐ Amendment under 37 C.F.R 1.111
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
  - ☐ Information Disclosure Statement
  - ☐ Form PTO-1449/w references
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Assignment Papers *(for an Application)*
  - ☐ Submission of Substitute Drawing(s)
  - ☐ Replacement Sheet
- ☐ Declaration and Power of Attorney
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Application Data Sheet
- ☐ Request for Corrected Filing Receipt with Enclosures
- ☐ A self-addressed prepaid postcard for acknowledging receipt
- ☒ Other Enclosure(s) *(please identify below)*:
  1. **Petition Under 37 CFR 3.81(b)**
  2. **Request For Certificate of Correction**
  3. **Certificate of Correction**
  4. **Notice of Recordation of Assignment Document (Copy)**

Remarks: ☒ The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 19-2380 for the above identified docket number.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Anthony J. Canning, Reg. No. 62,107 Nixon Peabody LLP 401 9th Street, N.W. Suite 900 Washington, D.C. 20004-2128
Signature	Anthony Canning
Date	August 5, 2008

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop _____, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

August 5, 2008
Date

Lynette E. James
Signature
Lynette E. James
Typed or printed name

Best Available Copy

RECEIVED
CENTRAL FAX CENTER
AUG 05 2008

Docket No. 740756-1962

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of	)	
Takeshi FUKADA et al.	)	Art Unit: 2825
Serial No. 09/294,338	)	Examiner: Lex Malsawma
Patent No. 6,268,631 B1	)	
Issued: July 31, 2001	)	
Filed: April 20, 1999	)	Date: August 5, 2008

For: GLASS SUBSTRATE ASSEMBLY, SEMICONDUCTOR DEVICE AND METHOD OF HEAT-TREATING GLASS SUBSTRATE

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-8300 on August 5, 2008.

Lynette E. James

REQUEST FOR CERTIFICATE OF CORRECTION

Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reviewing the above-identified patent, an error of a typographical nature was discovered therein requiring correction in order to conform to the Official Record in the application. None of the below corrections should be considered substantive in nature, but instead merely correct obvious errors therein.

The errors noted are set forth on the attached copy of Form PTO-1050 (Rev. 3-82) in the manner required by the Commissioner's Notice.

Specifically, upon reviewing the front page of the issued patent the following error was noted:

11107157.1

U.S. Patent No. 6,268,631 B1
Application No. 09/294,338
Docket No.740756-1962

The Assignee's name (i.e., Semiconductor Energy Laboratory Co., Ltd.) was misspelled (i.e., Semiconductor Energy Laboratoty Co., Ltd.).

This misspelling originally occurred on the Issue Fee Transmittal form (PTOL-85B) dated June 5, 2001, and consequently was misspelled on the front page of the above-referenced patent.

As provided by the Notice of Recordation of Assignment Document (i.e., Reel/Frame 7171/0723) dated September 23, 1994 for Parent Application No. 08/311,275, now Patent No. 5,674,304, the assignment was submitted for recordation before the issuance of U.S. Patent No. 6,268,631 B1 on July 31, 2001, and properly assigned interest to Semiconductor Energy Laboratory Co., Ltd.

Thus, for the reasons stated in the accompanying Petition under 37 C.F.R. 3.81(b), Patentee respectfully requests that --Semiconductor Energy Laboratoty Co., Ltd-- be deleted from the front page of U.S. Patent No. 6,268,631 B1, and be replaced with --Semiconductor Energy Laboratory Co., Ltd.--

The Commissioner is hereby authorized to charge any fees connected with this filing which may be required now, or credit any overpayment to Deposit Account No. 19-2380.

Respectfully submitted,

Anthony J. Canning
Registration No. 62,107

NIXON PEABODY LLP
401 9th Street, N.W.
Suite 900
Washington, DC 20004-2128
(202) 585-8000
Fax: (202) 585-8080

JLC/AJC/lej

11107157.1

PAGE 3/10 * RCVD AT 8/5/2008 6:29:20 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/33 * DNIS:2738300 * CSID:866 741 0075 * DURATION (mm-ss):01-48

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,268,631 B1

ISSUED : July 31, 2001

INVENTOR(S) : Takeshi FUKADA et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the front page of the patent, the Assignee's name "Semiconductor Energy Laboratoty Co., Ltd." should be deleted, and replaced with --Semiconductor Energy Laboratory Co., Ltd.--.

MAILING ADDRESS OF SENDER:
NIXON PEABODY LLP
401 9th Street, N.W., Suite 900
Washington, D.C. 20004-2128

PATENT NO. 6,268,631

SEND TO: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

11106616.1

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AUG 05 2008

Docket No. 740756-1962

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of	)	
Takeshi FUKADA et al.	)	Art Unit: 2825
Serial No. 09/294,338	)	Examiner: Lex Malsawma
Patent No. 6,268,631 B1	)	
Issued: July 31, 2001	)	
Filed: April 20, 1999	)	Date: August 5, 2008

For: GLASS SUBSTRATE ASSEMBLY, SEMICONDUCTOR DEVICE AND METHOD OF HEAT-TREATING GLASS SUBSTRATE

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the USPTO at 571-273-8300 on August 5, 2008.

Lynette E. James

PETITION UNDER 37 CFR 3.81(b)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition that the requirements of 37 CFR 3.81 be waived to enable correction of Applicants' error in the misspelling of the Assignee's name item three (3) of the Issue Fee Transmittal as "Semiconductor Energy Laboratoty Co., Ltd.". A copy of the request for issuance of a Certificate of Correction and the requisite fee are submitted simultaneously herewith.

In particular, an assignment was filed for Parent Application No. 08/311,275, now Patent No. 5,674,304, was recorded at Reel/Frame 7171/0723 on September 23, 1994, which has the proper spelling of the Assignee's name.

08/13/2008 HMARZI1 00000004 192380 09294338
01 FC:1464 130.00 DA

11107506.1

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AUG 05 2008

U.S. Patent No. 6,268,631 B1
Application No. 09/294,338
Docket No.740756-1962

The error for which correction is herein requested occurred on the Issue Fee Transmittal form (PTOL-85B) submitted June 5, 2001 when the Assignee's name was misspelled. This error was inadvertent and typographical in nature.

The proper spelling of the Assignee's name is important to those reviewing issued patents to designate the true owners of a particular patent. Specifically, it is important for the patentee to properly receive business inquiries from interested parties. It is also important to the interested public so that the proper owners are recognized and available for business discussions, for instance, when the subject patent is noted during a search. Without the requested Certificate of Correction, the patentee could lose potential business opportunities and the public could be misinformed. Consequently, the patentee respectfully requests that the Certificate of Correction be granted in this patent.

A copy of the recorded assignment for Parent Application No. 08/311,275 is submitted herewith as true and accurate proof of the Assignee's name.

✓ The Petition Fee amount of $130.00 under 37 C.F.R. 1.117(h) and any additional fees or overages due in connection with this patent and the requested actions should be applied to Deposit Account No. 19-2380 (740756-1962).

Respectfully submitted,

Anthony J. Canning
Registration No. 62,107

Nixon Peabody LLP
401 9th St., N.W.
Suite 900
Washington, DC 20004
Phone: 202-585-8000

11107506.1

PAGE 6/10 * RCVD AT 8/5/2008 6:29:20 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/33 * DNIS:2738300 * CSID:866 741 0075 * DURATION (mm-ss):01-48

Best Available Copy

0756-1111

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

DATE: 11/14/94
TO:

N07A
SIXBEY, FRIEDMAN, LEEDOM, ET AL
2010 CORPORATE RIDGE, SUITE 600
MCLEAN, VIRGINIA 22102
ATTN: GERALD J. FERGUSON

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AUG 05 2008

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT BRANCH OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE U.S. PATENT AND TRADEMARK OFFICE ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT ASSIGNMENT PROCESSING SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT BRANCH, NORTH TOWER BUILDING, SUITE 10C35, WASHINGTON, D.C. 20231

ASSIGNOR: DOC DATE: 09/15/94
FUKADA, TAKESHI

ASSIGNOR: DOC DATE: 09/15/94
SAKAMA, MITSUNORI

ASSIGNOR: DOC DATE: 09/15/94
TERAMOTO, SATOSHI

RECORDATION DATE: 09/23/94 NUMBER OF PAGES 003 REEL/FRAME 7171/0723

DIGEST : ASSIGNMENT OF ASSIGNORS INTEREST

ASSIGNEE:
SEMICONDUCTOR ENERGY LABORATORY CO., LTD.
398, HASE, ATSUGI-SHI, KANAGAWA-KEN 243 JAPAN

SERIAL NUMBER 8-311275 FILING DATE 09/23/94
PATENT NUMBER ISSUE DATE 00/00/00

EXAMINER/PARALEGAL
ASSIGNMENT BRANCH
ASSIGNMENT/CERTIFICATION SERVICES DIVISION

RECEIVED
DEC 12 1994
SIXBEY, FRIEDMAN, LEEDOM & FERGUSON

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581 A10

08/311275

MAIL ROOM SEP 23 1994 30 PAT. & TRADEMARK OFF.

RECORDATION FORM COVER SHEET

Docket: 0756-1111

To the Honorable Commissioner of Patent and Trademarks. Please record the attached original documents or copy thereof.

1. Name of conveying parties: Takeshi FUKADA, Mitsunori SAKAMA, Satoshi TERAMOTO
Additional name(s) of conveying party(ies) attached? [ ] Yes [X] No

RECEIVED 94 NOV -3 PM 6:56 ASSIGNMENT BRANCH

2. Name and address of receiving party(ies):
Name: Semiconductor Energy Laboratory Co., Ltd.
Street Address: 398, Hase, Atsugi-shi, Kanagawa-ken 243 Japan
City _____ State _____ ZIP _____
Additional name(s) & addresses(es) attached? ___ Yes ___ No

3. Name of Conveyance:
[X] Assignment [ ] Merger
[ ] Security Agreement [ ]Change of Name
[ ] Other _____
Execution Date: September 15, 1994

4. Application number(s) or patent number(s):
If this document is being filed together with a new application, the execution date of the application is: September 15, 1994
Title: GLASS SUBSTRATE ASSEMBLY, SEMICONDUCTOR DEVICE AND METHOD OF HEAT-TREATING GLASS SUBSTRATE

A: Patent Application No.(s) B. Patent No.(s)
Additional numbers attached? ___ Yes ___ No

REEL 7171 FRAME 723

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: SIXBEY, FRIEDMAN, LEEDOM & FERGUSON, P.C.
Street Address: 2010 Corporate Ridge, Suite 600
City: McLean State: Virginia ZIP 22102

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): $40.00
[X] Enclosed
[ ] Authorized to be changed to deposit account

93708649

8. Deposit Account Number: _____
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

100 MG 10/07/94 08311275 1.581 40.00 CK

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Gerald J. Ferguson, Jr.
Name of Person Signing

Signature

5/24/94
Date

Total number of pages including cover sheet, attachments, and document: 3

Best Available Copy

08/311275

SIXBEY, FRIEDMAN, LEEDOM & FERGUSON, P.C.
United States Patent Rights

ATTORNEY DOCKET NO.
0756-1111

ASSIGNMENT

Serial No. _____ Filed _____

WHEREAS, Takeshi FUKADA,

Mitsunori SAKAMA,

Insert Name(s) of Inventor(s)

Satoshi TERAMOTO

Insert Title of Invention

(hereinafter designated as the undersigned) has (have) invented certain new and useful improvements in

GLASS SUBSTRATE ASSEMBLY, SEMICONDUCTOR DEVICE AND METHOD OF HEAT-TREATING GLASS SUBSTRATE

Insert Date of Signing of Application

for which an application for Letters Patent of the United States of America has been executed by the undersigned on September 15, 1994; and

WHEREAS, SEMICONDUCTOR ENERGY LABORATORY CO., LTD.

Insert Name of Assignee

Insert Address of Assignee

of 398, Hase, Atsugi-shi, Kanagawa-ken 243 Japan

its heirs, successors, legal representatives and assigns (hereinafter designated as the Assignee) is desirous of acquiring the entire right, title and interest in and to said invention and in and to any Letters Patent(s) that may be granted therefor in the United States of America;

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) to the undersigned in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration, the undersigned has (have) sold, assigned and transferred, and by these presents do sell, assign and transfer unto said Assignee the full and exclusive right to the said invention in the United States of America and its territories, dependencies and possessions and the entire right, title and interest in and to any and all Letters Patent(s) which may be granted therefor in the United States of America and its territories, dependencies and possessions, and in and to any and all divisions, reissues, continuations and extensions thereof for the full term or terms for which the same may be granted.

REEL 7171 FRAME 724

Best Available Copy

The undersigned agree(s) to execute all papers necessary in connection with this application and any continuing, divisional or reissue applications thereof and also to execute separate assignments in connection with such applications as the Assignee may deem necessary or expedient.

The undersigned agree(s) to execute all papers necessary in connection with any interference which may be declared concerning this application or any continuation, division or reissue thereof or Letters Patent(s) or reissue patent issued thereon and to cooperate with the Assignee in every way possible in obtaining and producing evidence and proceeding with such interference.

The undersigned agree(s) to execute all papers and documents and to perform any act which may be necessary in connection with claims under or provisions of the International Convention for the Protection of Industrial Property or similar agreements.

The undersigned agree(s) to perform all affirmative acts which may be necessary to obtain a grant of a valid United States patent(s) to the Assignee and to vest all rights therein hereby conveyed to said Assignee as fully and entirely as the same would have been held by the undersigned if this Assignment and sale had not been made.

The undersigned hereby authorize(s) and request(s) the Commissioner of Patents and Trademarks to issue any and all Letters Patents of the United States of America resulting from said application or any division or divisions or continuing or reissue applications thereof to the said Assignee, as Assignee of the entire interest, and hereby convenants that he has (they have) the full right to convey the entire interest herein assigned, and that he has (they have) not executed, and will not execute, any agreement in conflict herewith.

The undersigned hereby grant(s) the law firm of Sixbey, Friedman, Leedom & Ferguson, P.C. the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the U.S. Patent and Trademark Office for recordation of this document.

In witness whereof, this Assignment has been executed by the undersigned on the date(s) opposite the undersigned name(s).

REEL 7171 FRAME 725

Date September 15, 1994, Name of Inventor 堀内 武 (signature) (SEAL)
Takeshi FUKADA

Date September 15, 1994, Name of Inventor Mitsunori Sakama (signature) (SEAL)
Mitsunori SAKAMA

Date September 15, 1994, Name of Inventor 寺本 聡 (signature) (SEAL)
Satoshi TERAMOTO

Date _____, Name of Inventor _____ (signature) (SEAL)

Date _____, Name of Inventor _____ (signature) (SEAL)

(This assignment should preferably be acknowledged before a United States Consul or Notary Public. If not, then the execution by the Inventor(s) should be witnessed by at least two other persons who should sign here.)

RECORDED
PATENT & TRADEMARK OFFICE
SEP 23 94

Witness _____ (name) _____ (signature)

Witness _____ (name) _____ (signature)

Witness _____ (signature)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

COPY MAILED
MAY 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Masaaki Hiroki	:	
Application No. 09/294,341	:	ON PETITION
Filed: April 20, 1999	:	
Attorney Docket No. 0756-1964	:	

This is a decision on the petition, filed May 12, 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 April 5, 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 2629 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
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. _____

Date : May 15, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Masaaki Hiroki
Application No. :09/294,341
Filed :April 20, 1999

The above-identified application has been assigned Patent No. 7,053,879 and an issue date of May 30, 2006.

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 May 30, 2006:

"All reference to Patent No. 7,053,879 to Masaaki Hiroki of Japan for DISPLAY DEVICE appearing in the Official Gazette of May 30, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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OFFICE OF PETITIONS

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Application of
Masaaki Hiroki
Application No. 09/294,341
Filed: April 20, 1999
Attorney Docket No. 0756-1964

ON PETITION

This is a decision on the petition, filed May 12, 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 April 5, 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 2629 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).

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)
6,327,321	2001-12-04	09/294,470	1999-04-20	103-0002 (was FCF 03-03)

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	/Sean P. O'Hanlon/	Date (YYYY-MM-DD)	2010-01-23
Name	Sean P. O'Hanlon	Registration Number	47252

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6327321
Issue Date: December 4,2001
Application No. 09294470
Filed: April 20,1999
Attorney Docket No. FCF03-03

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed January 23,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 23,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6263628
Issue Date: July 24,2001
Application No. 09294903
Filed: April 21,1999
Attorney Docket No. 903-1

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed September 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 September 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.

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)
6263628	2001-07-24	09294903	1999-04-21	903-1

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

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	/John Griffin/	Date (YYYY-MM-DD)	2009-09-14
Name	John Griffin		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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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P.O. Box 1450
Alexandria, VA 22313-1450
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SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

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JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of	:
Cox, et al.	: DECISION GRANTING PETITION
Application No. 09/294,956	: UNDER 37 CFR 1.137(b)
Filed: April 20, 1999	:
Atty. Dkt. No.: 12558	:

This decision is in response to the petition under 37 CFR 1.137(b), filed May 4, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a proper reply to the final Office action mailed August 23, 2005. The final Office action set a three month statutory period of time for reply. Notice of Abandonment was mailed April 3, 2006.

A grantable petition under 37 CFR 1.137(b) requires submission of: (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 Director 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 37 CFR 1.137(d).

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.

This application is being forwarded to Technology Center 2100 for processing of the RCE submitted herewith.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 10

MAIL

SEP 21 2001

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NORMAN P. SOLOWAY
HAYES SOLOWAY HENNESSEY GROSSMAN & HAGE
175 CANAL STREET
MANCHESTER NH03101

In re Application of:
Scott D. Redmond
Application No. 09/295,000
Filed: April 16, 1999
For: MEDIA FILE DISTRIBUTION WITH ADAPTIVE TRANSMISSION PROTOCOLS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney of record filed August 27, 2001.

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.

A request to revoke the power of attorney was filed in the Office on April 9, 2001 and was accepted by the Office on April 16, 2001.

For the above stated reasons the request is **DISMISSED AS MOOT**.

A courtesy copy of this decision is being mailed to the petitioner at the address on the petition. However, all future communications from the Office will be directed to the below-listed correspondance address unless the Office receives proper notification to send communications otherwise.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

cc: PATRICK J.S. INOUYE
PATRICK J.S. INOUYE, PS
810 THIRD AVENUE
SUITE 258
SEATTLE, WA 98104

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

PATRICK J.S. INOUYE
PATRICK J.S. INOUYE, PS
810 THIRD AVENUE/SUITE 258
SEATTLE WA 98104

MAIL

JUN 0 5 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:)
Redmond)
Application No.: 09/295,000)
Filed: April 16, 1999)
For: MEDIA FILE DISTRIBUTION WITH)
ADAPTIVE TRANSMISSION PROTOCOLS)

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney of record filed May 10, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. §1.136(a).

The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. §402.06. 37 C.F.R. §1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All 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.

Ken Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: TRANZ-SEND BROADCASTING NETWORK
601 VAN NESS/SUITE E-344
SAN FRANCISCO, CA 94102

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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FEB 23 2007

OFFICE OF PETITIONS

CARLA L. GANNON
118 SW 2ND STREET
OAK ISLAND NC 28465

In re Application of
Scott D. Redmond
Application No. 09/295,000
Filed: April 16, 1999
Title of Invention.: **MEDIA FILE DISTRIBUTION WITH ADAPTIVE TRANSMISSION PROTOCOLS**

ON PETITION

This is a decision on the petition filed January 16, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 28, 2003. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 1, 2003. Accordingly, a Notice of Abandonment was mailed on November 26, 2003.

Also, the address shown on the petition differs from the address of record. The mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, without mentioning the fact that an address change was made, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c). A courtesy copy of this decision is being

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

mailed to the address found on the petition but in the future, correspondences will only be mailed to the address of record.

This matter is being referred to Technology Center 2663 for appropriate action on the amendment filed January 16, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

CARLA L. GANNON
5625 SOUTH EUGENE STREET
GREENSBORO, NC 27401

1fw Petition office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

CARLA L. GANNON
118 SW 2ND STREET
OAK ISLAND NC 28465

In re Application of
Scott D. Redmond
Application No. 09/295,000
Filed: April 16, 1999
Title of Invention.: **MEDIA FILE DISTRIBUTION WITH ADAPTIVE TRANSMISSION PROTOCOLS**

ON PETITION

This is a decision on the petition filed January 16, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 28, 2003. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 1, 2003. Accordingly, a Notice of Abandonment was mailed on November 26, 2003.

Also, the address shown on the petition differs from the address of record. The mere inclusion, in a paper filed in the application for another purpose, of an address differing from the previously provided correspondence address, without mentioning the fact that an address change was made, does not constitute a proper change of address notification." See MPEP sections 601.03 and 711.02(c). A courtesy copy of this decision is being

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

mailed to the address found on the petition but in the future, correspondences will only be mailed to the address of record.

This matter is being referred to Technology Center 2663 for appropriate action on the amendment filed January 16, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

CARLA L. GANNON
5625 SOUTH EUGENE STREET
GREENSBORO, NC 27401

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARLA GANNON
THE PATENT LAW OFFICES OF
WALTER L. BEAVERS
326 SOUTH EUGENE STREET
GREENSBORO, NC 27401

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AUG 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Scott D. Redmond	:	
Application No. 09/295,000	:	DECISION ON PETITION
Filed: April 16, 1999	:	TO WITHDRAW
Attorney Docket No. 01855-D6	:	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 March 26, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Patent Law Offices Of Walter L. Beavers has been revoked by the applicant of the patent application on March 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 05-04

Paper No: 27

MENOTTI J. LOMBARDI
ITT FLUID TECHNOLOGY
10 MOUNTAINVIEW ROAD
UPPER SADDLE RIVER, NJ 07458

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MAY 1 0 2004
OFFICE OF PETITIONS

In re Application of
Mellardo :
Application No. 09/295,212 : ON PETITION
Filed: 21 April, 1999 :
Attorney Docket No. Mellardo-1 :

This is a decision on the petition filed on 21 April, 2004, to revive the application under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition is **DISMISSED**.

NOTES: (1) Any request for reconsideration (with fee) of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.137(b)".

(2) Thereafter there will be no further reconsideration.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Drawings Requirement accompanying the Notice of Allowability and Notice of Allowance and Fees Due mailed on 22 October, 2003, with a reply due under a non-extendable deadline on or before 22 January, 2004;

- a result, the application was deemed abandoned after midnight 22 January, 2004;
- Notice of Abandonment was mailed on 15 March, 2004;
- with the instant petition and drawings, Petition failed to authorize the petition fee–although a Deposit Account was identified, no box was checked to indicate authorization of charges.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unintentional." 35 U.S.C. §41(a)(7). The regulations at 37 C.F.R. §1.137(b) set forth the requirements for a petitioner to revive a previously unintentionally abandoned application under this congressional grant of authority. Petitioner must be diligent in attending to the matter.[1] Failure to do so does not constitute the care required under Pratt,[2] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

Allegations as to Unintentional Delay

Petitioner has failed to satisfy the fee requirements under 37 C.F.R. §1.137(b).

CONCLUSION

Because Petitioner satisfied the burdens set forth under 37 C.F.R. §1.137(b) hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

---

[1] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); see also: Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

By mail: (Effective 1 May, 2003)[4]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

By hand: Customer Service Window
Lobby/Room 1B03
Crystal Plaza Two
2011 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

OCT 10 2002

Paper No. 14

In re Application of
Norio Sumitomo *et al*
Application No. 09/295,273
Filed: April 20, 1999
Attorney Docket No. PATENT 2927-0103P

: DECISION ON PETITION

This is a decision on the petition filed on May 30, 2002 by which petitioners have requested withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated October 2, 2001. No fee is required for the petition.

The petition is granted.

Petitioners allege that this application was not in fact abandoned because a timely and proper reply to the Office letter in question was in fact filed. This allegation is supported by a copy of the reply, and by a copy of the filing receipt for the reply showing that the reply was in fact filed on October 25, 2001. This reply was timely by reason of the previously filed Notice of Appeal on September 21, 2001. Based upon this showing, it is clear that this application was not in fact abandoned. It is also noted that Office financial records show that petitioners' check in the amount of $740.00 for the reply, which was in the form of a 37 CFR 1.114 Request for Continued Examination (RCE) was received on October 25, 2001.

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 October 25, 2001, which will include entry of the amendment after final action previously filed on September 21, 2001 and entry of the 37 CFR 1.132 declaration attached to the RCE. In addition, the first name of applicant Sumitomo should be correct to read "Norio" in the PALM database. Thereafter, the application will be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

BEST AVAILABLE COPY

Birch Stewart Kolasch & Birch
P. O. Box 747
Falls Church, VA 22040-0747

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 32

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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OCT 2 2 2004

OFFICE OF PETITIONS

In re Application of :
Schmidt :
Application No. 09/295,302 :
Filed: April 21, 1999 :
Attorney Docket No. 109572-00101 :
For: AGENT FOR THE MANUFACTURE OF BIOLOGICAL PARTS

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.137(b), filed May 23, 2003 to revive the above-identified application.

This application became abandoned for failure to properly reply to the final Office action, mailed June 28, 2002. Petitioner obtained a one month extension of time and submitted an amendment after final on October 3, 2002. The amendment after final failed to place the application in *prima facie* condition for allowance. This application became abandoned on October 29, 2002. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

The amendment filed with the instant petition places the application in *prima facie* condition for allowance. Petitioner has provided a proper reply, the petition fee, and an acceptable statement of the unintentional nature of the delay in responding to the June 28, 2002 final Office action.

The petition to revive under 37 CFR §1.137(b) is **granted**.

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.

After the mailing of this decision, the application will be returned to Technology Center AU 1653.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions

cc: BRIAN C. JONES
BLANK ROME LLP
900 17TH STREET, N.W.
SUITE 1000
WASHINGTON, DC 20006

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

EUGENIA GARRETT WACKOWSKI
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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NOV 1 5 2001

OFFICE OF PETITIONS

In re Application of
Joshi, et al.
Application No. 09/295,663
Filed: April 21, 1999
Attorney Docket No. 20801-000720

DECISION ON PETITION

This is a decision on the petition filed on October 31, 2001, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to properly reply to the final Office action mailed March 28, 2001. This Office action 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 June 29, 2001. The instant petition precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner filed a Notice of Appeal (with fee) in reply to the final Office action, and met all other requirements for a grantable petition under 37 CFR 1.137(b).

Please be advised that the two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 C.F.R. 1.17(c)), runs from the date of this decision.

Deposit Account No. 20-1430 has been charged the petition fee of $640.00, as authorized, in addition to the fee of $160.00 for the Notice of Appeal. However, the extension of time fee has not been charged. 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 $460.00 extension of time fee submitted with the petition on October 31, 2001 was subsequent to the maximum period obtainable for reply (September 28, 2001), this fee was unnecessary.

The application file is being returned to Technology Center 1600.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (703)305-0272.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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PEARL COHEN ZEDEK, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK, NY 10036

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MAY 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Hillel Gazit	:	
Application No. 09/295,676	:	
Filed: April 21, 1999	:	ON PETITION
Attorney Docket Number:	:	
P-7959-US	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application under 37 CFR 1.137(b), filed February 2, 2006.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 30, 2002. The Office action set a three (3) month period for reply. No reply having been received, the application became abandoned on March 31, 2003. A Notice of Abandonment was mailed on April 19, 2004.

With the instant petition, Applicant has filed an Amendment and the appropriate responses to place the application in condition for allowance.

The petition is hereby **granted**.

This application is being referred to Technology Center 2663 for processing of the Amendment in due course.

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

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/12/2010

Applicant	: JEROME A MOUTON JR.	: DECISION ON REQUEST FOR
Patent Number	: 7617175	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/295,690	: OF WYETH
Filed	: 04/21/1999	:
		:

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 RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/8/08

TO SPE OF : ART UNIT 2827

SUBJECT : Request for Certificate of Correction on Patent No.: 6803657

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:

There is no evidence of error incurred through fault of the Office or mistake satisfying the statutory requirements. See MPEP 1480.1 and 1481. Also, many of the alleged errors and mistakes were denied entry in the paper filed on 6-30-4.

/Kimberly D Nguyen/ — SPE

2894 — Art Unit

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Paper No. 8

ROSS D SNYDER & ASSOCIATES
115 WILD BASIN RD
SUITE 107
AUSTIN TX 78746

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AUG 23 2001

OFFICE OF PETITIONS

In re Application of
Hebert, et al.
Application No. 09/295,818
Filed: April 21, 1999
Attorney Docket No. 1400.9801210

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 13, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts mailed May 12, 1999. This 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 July 13, 1999. A Notice of Abandonment was mailed on February 12, 2001.

With the instant petition, petitioner filed an executed oath or declaration, paid the petition fee, and made the proper statement of unintentional delay. While petitioner did not submit the $1274 as required by the Notice to File Missing Parts ($760 for the basic filing fee, $384 for additional claims, $130 for the surcharge), this amount has been charged to Deposit Account 50-1566 as authorized in the Fee Transmittal Form, filed August 13, 2001.

It is noted that a Notice of Incomplete Nonprovisional Application was mailed on June 13, 2000, informing petitioner that a filing date had not been accorded because the specification was missing. A review of the application file reveals that a specification was submitted on April 21, 1999.

Accordingly, the Notice of Incomplete Nonprovisional Application is hereby **VACATED**.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of April 21, 1999. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

for D Wood

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ALEXANDRIA, VA 22313-1450
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Paper No. 27

MacMillan, Sobanski & Todd, LLC
One Maritime Plaza, Fourth Floor
720 Water Street
Toledo, Ohio 423604

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JUN 3 0 2003

OFFICE OF PETITIONS

In re Application of
Hans Heinle, et al.
Application No. 09/295,830
Filed: April 21, 1999
Attorney Docket No. 1-21294

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). No extension of time under the provisions of 37 CFR 1.136(a) were obtained. As an appeal brief (and appeal brief fee) was not filed within six (6) months of the Notice of Appeal filed October 7, 2002, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on December 8, 2002. See MPEP 1215.04.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application file is being forwarded to Technology Center 3600, Art Unit 3611 for processing the Request for Continued Examination under 37 CFR 1.114, filed on June 10, 2003.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley
Petitions Examiner

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Paper No. 20

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK, NY 10023

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JUL 21 2003

OFFICE OF PETITIONS

In re Application of :
Gi Yong Yoo :
Application No. 09/295,850 : ON PETITION
Filed: April 21, 1999 :
Attorney Docket No. U012218-7 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 11, 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 June 24, 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 September 25, 2002.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the

person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The Associate Power of Attorney filed July 11, 2003 has not been made of record since Michael R. Friscia is not a principal agent of record in this case.

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 1731.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: WOLFF & SAMSON PC
ONE BOLAND DRIVE
WEST ORANGE, NJ 07052

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C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD, CA 93036

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Adam M. Feldstein et al	:	
Application No. 09/295,864	:	DECISION ON PETITION
Filed: April 21, 1999	:	
Attorney Docket No. MCS-003-98	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fees on or before May 7, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 7, 2007. Accordingly, the date of abandonment of this application is May 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400.00 (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay. The overpayment of the publication fee of $300.00 is being refunded by Treasury Check as it is not required.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Thurman K. Page at (571) 272-0602.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. 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.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) MCS-003-98

First named inventor: ADAM M. FELDSTEIN

Application No.: 09/295,864 Art Unit: 3622

Filed: 04/21/1999 Examiner: CHAMPAGNE, DONALD

Title: SYSTEM AND METHOD FOR DYNAMICALLY PROVIDING PERSONALIZED TRACKED DATA AND AUTOMATICALLY UPDATING THE DATA

Refund Ref:
04/04/2008 0030053376

Credit Card Refund Total: $300.00

Am Exp..: XXXXXXXXXXX1019

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☑ Other than small entity – fee $ 1500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ 1400.00.

☐ has been paid previously on _____.
☑ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(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 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 FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Adjustment date: 04/04/2008 CKHLOK
03/20/2008 INTEFSW 00007649 09295864
01 FC:1504 -300.00 OP

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	June 14, 2007 Date
Craig S. Fischer Typed or printed name	42,535 Registration Number, if applicable
300 East Esplanade Drive, Suite #800 Address	(805) 278-8855 Telephone Number
Oxnard, CA 93036-1274 Address	

Enclosures:
- ☑ Fee Payment
- ☑ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☑ Transmitted by EFS-Web on the date shown below to the United States Patent and Trademark Office.

June 14, 2007 Date	Signature
	Craig S. Fischer Typed or printed name of person signing certificate

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 03/22/08

2 Serial/Patent # 09/295,864

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other			$ 300.00

7 TOTAL AMOUNT OF REFUND $ 300.00

8 TO BE REFUNDED BY:

X ~~Treasury Check~~ C.C.

Credit Deposit A/C #:

9 [ ][ ] -- [ ][ ][ ][ ]

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Publication fees not required on PTOL-85

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Thurman K. Page TITLE: Petitions Examiner

SIGNATURE: Thurman K. Page PHONE: 272-0602

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhk DATE: 4/4/08

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
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WWW.USPTO.GOV

Paper No. 6

PETER A. LIPOVSKY
SPAWARSYSCEN, SAN DIEGO
53510 SILVERGATE AVE., RM 103B
SAN DIEGO, CA 92152-5765

COPY MAILED

AUG 18 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Adams et al.
Application No. 09/295,958
Filed: April 21, 1999
Attorney Docket No. 79628

This decision concerns the June 25, 2003 petition under 37 CFR 1.137(b) which alleges non-receipt of a certain USPTO correspondence, and is being properly treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-referenced application.

The petition is **GRANTED.**

On April 21, 1999, the application was filed. On May 13, 1999, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Application" ("5/13/99 Notice"), stating that the declaration filed on April 21, 1999 was not signed by an inventor named in the application, and setting forth an extendable 2-month reply period. No response was filed on or before December 13, 1999 and no extension of time under 37 CFR 1.136(a) was obtained. The application was held abandoned on July 14, 1999.

The petition asserts non-receipt of the 5/13/99 Notice, implying that the application should not have been held abandoned.

A grantable petition to withdraw the holding of abandonment, alleging non-receipt of an Office action which is the cause of the abandonment, must overcome a strong presumption that the Office action at issue, duly addressed and indicated as mailed, was timely delivered to the addressee.[1] The showing required to overcome this presumption consists of:[2]

(1) a statement from the practitioner:

(A) stating that the Office action was not received by the practitioner;
(B) attesting, by referencing the docket record in (2) below, that a search of the relevant file jacket and docket records indicates that the Office action was not received; and

(2) a copy of the docket record where the allegedly non-received Office action would have been docketed had it been received.

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[1] 1156 OG 53 (Oct. 25, 1993). The 5/13/99 Notice was mailed to counsel's current address.

[2] *Id.*

The petition meets the above requirements and is thus granted.

The holding of abandonment in this application is hereby withdrawn, and the April 18, 2000 Notice of Abandonment vacated.

No petition fee is owed.

Finally, the instant petition encloses an executed declaration and authorizes the USPTO to charge the $130 surcharge for late filing of an acceptable declaration to Deposit Account No. 50-0847. The application is now complete.

The application file is being returned to OIPE for further processing, including mailing a filing receipt. Upon completion of pre-examination, the application file will be forwarded to the appropriate Technology Center for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BIO-TECH IMAGING, INC.
5711 INDUSRTY LANE UNIT 31
FREDERICK, MD 21704

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Hallowitz et al.	:	
Application No. 09/296,534	:	ON PETITION
Filed: April 22, 1999	:	
Attorney Docket No. 046-05-003	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 28, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed December 17, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 18, 2004. A Notice of Abandonment was mailed October 6, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

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 1600 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
Office of the Deputy Commissioner
for Patent Examination Policy

cc: V. GERALD GRAFE
INLIGHT SOLUTIONS, INC.
800 BRADBURY SE
ALBUQUERQUE, NM 87106

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EDGAR R. CATAXINOS
TRASKBRITT, PC
P.O. BOX 2550
SALT LAKE CITY UT 84110

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DEC 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
John R. Peery	:	
Application No. 09/296,582	:	ON PETITION
Filed: April 23, 1999	:	
Attorney Docket No. 000952066	:	

This is a decision on the petition, filed December 22, 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 April 2, 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 3763 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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Paper No. _____

Date : December 23, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :John R. Peery
Application No. :09/296,582
Filed :April 23, 1999

The above-identified application has been assigned Patent No. 6,981,959 and an issue date of January 3, 2006.

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 January 3, 2006:

"All reference to Patent No. 6,981,959 to John R. Peery of California for TROCAR FOR INSERTING IMPLANTS appearing in the Official Gazette of January 3, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAY 3 2000

#8

In re Application of

WEIMER et al.

Serial No.: 09/296,835

Filing Date: April 22, 1999

DECISION ON
REQUEST TO WITHDRAW
AS ATTORNEY OF RECORD

This is a decision on the request for withdraw as attorney of record filed March 13, 2000.

The request is **GRANTED** to the extent indicated below.

The criteria set forth in Section 402.06 of the Manual of Patent Examining Procedure for attorney or agent withdrawals have been satisfied. Accordingly, it is appropriate to approve the present withdrawal request.

The correspondence address of record has been changed to the address indicated in the present request.

The new correspondence address is: Thomas J. D'Amico, Esq.
Dickstein, Shapiro, Morin & Oshinsky LLP
2101 L Street, N. W.
Washington, D. C. 20037

Brian W. Brown
Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and
Optical Systems, and Components
(703) 308-6452

Fish & Richardson
45 Rockefeller Plaza, Suite 2800
New York, NY 10111

BWB:bb

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450

Paper No. 25

FLEHR HOEBACH TEST
ALBRITTON & HERBERT LLP
SUITE 3400
FOUR EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

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SEP 2 2 2003

OFFICE OF PETITIONS

In re Application of :
Buchanan et al. :
Application No. 09/296,927 :
Filed: April 22, 1999 :
Attorney's Docket No. A-55580-8/KS :

ON PETITION

This decision concerns the June 30, 2003 petition under 37 CFR 1.137(b).

The petition is **GRANTED.**

On March 28, 2001, a final Office action was mailed, giving Applicants a 3-month shortened statutory reply period.

On July 2, 2001 (Certificate of Mailing date June 28, 2001), a proposed amendment was filed but, as indicated in the July 25, 2001 Advisory Action, was not entered by the Examiner for failing to place the application in condition for allowance. The advisory action also pointed out that the period for responding to the March 28, 2001 final Office Action remained that set forth in the final Office action.

On October 1, 2001 (Certificate of Mailing date September 28, 2001), a Notice of Appeal was filed along with a request for a 3-month extension of time and the requisite extension-of-time fee.

An Appeal Brief was due within 2 months of October 1, 2001,[1] but was not filed on or before December 3, 2001 (Monday). Consequently, as of December 2, 2001, the appeal was dismissed,[2] and the application became abandoned since there were no allowed claims.[3]

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1 37 CFR 1.192(a); MPEP 1206 (Rev. 1, Feb. 2003).

2 37 CFR 1.192(b).

3 MPEP 1206 (Rev. 1, Feb. 2003).

The instant petition encloses a Request for Continued Examination (RCE),[4] an amendment as the "submission" required by 37 CFR 1.114, and an authorization to charge the $750 RCE filing fee and the $1,300 petition fee to Deposit Account No. 03-1952; and states that the entire delay in filing the required reply from the due date until the filing of a grantable §1.137(b) petition was unintentional. Moreover, a terminal disclaimer is not applicable in the instant case. The petition is thus granted.

The application is hereby revived for establishing continuity with the RCE.

Finally, the practitioner signing the instant petition does not appear to be one of the attorneys appointed to prosecute this application, and uses a correspondence address different from that in the Office record for this application. While a courtesy copy of the decision is being sent to this practitioner, all future correspondence on this application will be mailed to the current address-of-record unless the USPTO is properly instructed otherwise.

The application file is being returned to Technology Center 1700 for further examination.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

cc: Otis Littlefield, Esq.
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
Attorney Docket No. 41627205611

---

[4] MPEP 711.03(c)(III)((A)(2) (Rev. 1, Feb. 2003) ([W]here abandonment occurred because of failure to file an appeal brief, the reply required . . . must be either . . . an appeal brief . . . (and appeal brief fee) or . . . filing of a continuing application or an RCE).

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, D.C. 20231

MAILED
OCT - 3 2000
Office of Director
Technology Center 1600

Paper Number 11

In re Application of:
Langridge and Arakawa
Serial No. 09/296,981
Filed: April 22,1999
For: Methods and Substances for Preventing and Treating Autoimmune Disease

This is a decision on the petition requesting withdrawal as attorneys of record under 37 CFR 1.36 filed May 30, 2000.

MPEP 402.06 states:
Because the Office does not recognize law firms, each attorney of record must sign the notice of withdrawal, or the notice of withdrawal must contain a clear indication of one attorney signing on behalf of another.

A review of the petition shows there is only one signature and there is no indication that one attorney signing on behalf of another. Accordingly, the petition is denied.

The petition is **DENIED**.

Cecilia Tsang for
John Doll Director
Technology Center 1600

Kathleen M. Williams
Banner & Witcoff, Ltd.
28 State Street, 28th Floor
Boston, MA 02109

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Ralph J. Crispino
Revco Inc.
85 Executive Blvd.
Elmsford, NY 10523

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JAN 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
David C. Swift, et. al.	:	
Application No. 09/296,990	:	ON PETITION
Filed: April 22, 1999	:	
Attorney Docket No. REVEO-4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 26, 2003, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight June 26, 2003. A Notice of Abandonment was mailed on June 14, 2004.

In response, petitioner submitted with the instant petition an authorization to charge, the listed deposit account, $665 for the petition to revive fee, $385 for the Request for Continued Examination (RCE) under 37 CFR 1.114, and an amendment. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2613, for processing the Request for Continued Examination and for further 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
United States Patent and Trademark Office
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#19

Ralph J. Crispino
Revco Inc.
85 Executive Blvd.
Elmsford, NY 10523

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JAN 31 2005

OFFICE OF PETITIONS

In re Application of	:	
David C. Swift, et. al.	:	
Application No. 09/296,990	:	ON PETITION
Filed: April 22, 1999	:	
Attorney Docket No. REVEO-4	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 26, 2003, which set a shortened statutory period for reply of three (3) months. A one (1) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned after midnight June 26, 2003. A Notice of Abandonment was mailed on June 14, 2004.

In response, petitioner submitted with the instant petition an authorization to charge, the listed deposit account, $665 for the petition to revive fee, $385 for the Request for Continued Examination (RCE) under 37 CFR 1.114, and an amendment. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 2613, for processing the Request for Continued Examination and for further 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 DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty
Legal Office

Address:Assistant Commissioner for Patents
Box PCT
Washington, D.C. 20231

16 MAY 2000

Herbert Cohen
BLANK ROME COMISKY & McCAULEY LLP
900 17th Street, N.W.
Suite 1000
Washington, DC 20006

Dear Mr. Cohen:

This is in response to your request received 03 May 2000 inquiring about the status of U.S. patent application number 09/297,030. Please be advised that a "REQUEST FOR WITHDRAWAL OF NOTICE OF ABANDONMENT" was received on 17 November 1999 and a decision in response to that communication was issued on 30 March 2000. A copy of the decision is attached herewith for your convenience.

Sincerely,

Richard B. Lazarus
Supervisory PCT Legal Examiner
PCT Legal Office

Nguyên Ngoc-Hô
Paralegal Specialist
PCT Legal Office

NNH/RBL:hn

Tel: (703) 308-6508

Enclosure:
- Copy of Decision of 30 March 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

30 MAR 2000

Gary M. Smith
Nath & Associates
1030 15th Street, NW
Sixth Floor
Washington, D.C. 20005

In re Application of	:	DECISION ON PETITION
GLUSHKO et al.	:	
Application No.: 09/297,030	:	
PCT No.: PCT/IL98/00410	:	
Int. Filing Date: 26 August 1998	:	
Priority Date: 26 August 1997	:	
Attorney's Docket No.: 23873	:	
For: READING METHOD AND APPARATUS FOR THREE DIMENSIONAL INFORMATION CARRIER	:	

This is a decision on the Request for Withdrawal of Notice of Abandonment and Petition Under 1.47(b) filed 17 November 1999. The petition fee of **$130** under 37 CFR 1.17(i) and the petition fee of **$925.00** under 37 CFR 1.136 has been charged to Deposit Account No. **#23-2185**.

BACKGROUND

On 26 August 1998, applicant filed international application PCT/IL98/00410 which claimed a priority date of 26 August 1997 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 March 1999. A proper Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the priority date. Accordingly, the twenty-month period for paying the basic national fee in the United States was to expire at midnight on 26 April 1999.

On 23 April 1999, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371. Filed with the Transmittal Letter were, *inter alia*, the requisite basic national fee, a copy of the international application, and an unexecuted declaration.

On 20 May 1999, the United States Designated/Elected Office (DO/EO/US) mailed a

Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than the appropriate 20 months from the priority date. The Notification set a ONE MONTH time period to respond.

A Notification of Abandonment (Form PCT/DO/EO/909) was mailed on 05 November 1999 indicating that the application is abandoned for failure to respond to the Form PCT/DO/EO/905 mailed 20 May 1999. The notification stated that applicant failed to respond to the notification of MISSING REQUIREMENTS mailed 20 May 1999 within the time period set therein.

On 17 November 1999, applicant filed the instant petition requesting that the holding of abandonment be withdrawn. The petition was accompanied by, inter alia: a petition for a five-month extension of time; a petition for filing by assignee; a copy of the published international application; a petition under 37 CFR 1.47(b); a declaration executed by Eugene Levich; and a verified statement/declaration claiming small entity status.

DISCUSSION

A. Petition to Withdraw Holding of Abandonment

In view of the receipt of the papers filed 17 November 1999, which was a timely response to the Notification of Missing Requirements mailed 20 May 1999, the Notification of Abandonment mailed 05 November 1999 was in error and is hereby **VACATED**. The petition to withdraw the holding of abandonment is **GRANTED**.

B. Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 37 CFR 1.47(b) applicant has satisfied the requirements of items (1) (3), (4), and (6) above. However, items (2) and (5) have not been satisfied.

As to item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (M.P.E.P.), **Proof of Unavailability or Refusal**, states, in part:

> "Where a refusal of the inventor to sign the application papers is alleged, the circumstances of its refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present

when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which the conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration."

A review of the present petition and the accompanying papers reveal that applicant has not satisfied item (2) above, in that the applicants have not shown that a bona fide attempt was made to present the application papers, including the specification, claims, and drawings to Drs. Glushko and Krupkin. As stated in Dr. Alexander Libin's declaration, "[o]n June 2, 1999, I sent registered letters to Mr. Glushko and Mr. Krupkin requesting them to sign the Declaration and Assignment for the above captioned application." The mailing of the Declaration and Assignment is not considered a complete copy of the application paper (specification, including claims, drawings, and oath and declaration). Applicant has included copies of the letters. The letters fail to adequately identify the application to which the letters are directed and fail to identify what papers are enclosed. A copy of the mail receipt is provided as Exhibit C- E to the petition, however, the stamp placed on the returned receipt is illegible and has not been translated. Moreover, this Office is unable to determine why the correspondence was returned to the sender. In sum, the declaration of Dr. Libin does not show that a reasonable effort was made to secure the signature of the non-signing inventors. Accordingly, it is inappropriate, on the present record, to accord the national stage application status under 37 CFR 1.47(a).

As to item (5), Section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

"When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

If the application assigned, a copy of the assignment (in the English

> Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)...
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record."

Regarding item (5), petitioner has not demonstrated that applicant has a propriety interest in the invention. Dr. Libin's statement is not sufficient without corroborating evidence. As stated above, when an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

CONCLUSION

For the reasons above, the request to withdraw the holding of abandonment is **GRANTED**.

The petition filed under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Legal Affairs Division of the PCT Legal Office.

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Anthony Smith
PCT Petitions Attorney
PCT Legal Office
Telephone 703-308-6314
Fax: 703-308-6459

19 DEC 2000

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Herbert Cohen
BLANK ROME COMISKY & McCAULEY LLP
900 17th Street, N.W.
Suite 1000
Washington, DC 20006

In re Application of	:	
GLUSHKO et al.	:	
Application No.: 09/297,030	:	DECISION ON PETITION
PCT No.: PCT/IL98/00410	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 26 August 1998	:	
Priority Date: 26 August 1997	:	
Attorney Docket No.: 0744.078	:	
For: READING METHOD AND APPARATUS FOR A THREE-DIMENSIONAL INFORMATION CARRIER	:	

This decision is in response to "RENEWED PETITION UNDER 37 CFR 1.47(b)" filed 18 September 1999. In a decision dated 20 March 2000 the "PETITION UNDER 37 CFR 1.47(b))" filed 17 November 1999 was dismissed because (1) applicant did not provide adequate proof that the inventors refused to execute the application or could not be reached after diligent effort and (2) applicant did not provide adequate proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application. Deposit Account No. 23-2185 has been charged $390 for a two-month extension of time.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor and (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 30 March 2000 decision indicated that petitioner satisfied items (1), (3), (4) and (6) above. However, (5) has not been satisfied.

As to Item (2), a review of the present petition and the accompanying papers reveal that applicant has satisfied item (2), in that the applicant has shown that a bona fide attempt was made to present the application papers to Dr. Boris Glushko and Dr. Vladimir Krupkin.

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

> "When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been

assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record."

Regarding Item (5), petitioner has not demonstrated that applicant has a proprietary interest in the invention. Petitioner has provided a copy of the published international application which identifies OMD Devices, L.L.C. as an applicant and "copies of paper associated with both of the priority applications, including power of attorney in the Israeli case signed by Dr. Glushko, an assignment in U.S. provisional case . . . " however, these paper do not clearly establish that Dr. Glushko and Dr. Krupkin have assigned <u>the instant application</u> to OMD Devices, L.L.C. Moreover, it does not appear that OMD Devices L.L.P. has a proprietary interest in the invention. As stated in the Development Agreement dated 21 March 1997, "[d]eveloper (OMD Devices, L.L.C.) hereby assigns to The Company (TriD Store Inc.) . . . all Inventions... " There is no record of an assignment of the inventions from TriD Store Inc. to OMD Devices, L.L.C.

Additionally, Petitioner has included a legal memorandum prepared by David Gilat, an attorney at law familiar with laws of Israel. As stated in the legal memorandum, "[a]s a result of the aforesaid agreements Glushko and the Company signed an employment agreement on 18.12.96 effective retroactively, as of November 20, 1996. According to the Employment Agreement, Glushko was to be employed as a general manager of the Company"(See ¶6) and "[o]n 10.6.98 te first meeting of the members of OMD-Devices L.L.C. was held. The minutes of the meeting reveals that among the participants were Glushko and Krupin." (See ¶16) The agreements and minutes to which Mr. Gilat is referring to are not included with the petition. Finally, Mr. Gilat refers to a TrD Store Ltd. letter dated of 6.1.97, which has not been translated into English.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

The renewed petition filed under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)."

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Legal Affairs Division of the PCT Legal Office.

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In re Application of	:	
GLUSHKO et al.	:	
Application No.: 09/297,030	:	DECISION ON PETITION
PCT No.: PCT/IL98/00410	:	UNDER 37 CFR 1.47(b)
Int. Filing Date: 26 August 1998	:	
Priority Date: 26 August 1997	:	
Attorney Docket No.: 0744.078	:	
For: READING METHOD AND APPARATUS FOR A THREE-DIMENSIONAL INFORMATION CARRIER	:	

This decision is in response to the (second) "RENEWED PETITION UNDER 37 CFR 1.47(b)" filed 20 February 2001. In a decision dated 19 December 2000 the "RENEWED PETITION UNDER 37 CFR 1.47(b))" filed 18 September 2000 was dismissed because applicant did not provide adequate proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

DISCUSSION

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(i); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor and (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. The 30 March 2000 decision indicated that petitioner satisfied items (1), (3), (4) and (6) above. The 19 December 2000 decision indicated that petitioner satisfied items (2) above. However, (5) has not been satisfied.

Concerning Item (5), section 409.03(f) of the M.P.E.P., **Proof of Proprietary Interest**, states, in part:

> "When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that, as of the date the application is deposited in the Patent and Trademark Office, (1) the invention has been assigned to the applicant, or (2) the inventor has agreed in writing to assign the invention to the applicant, or (3) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application assigned, a copy of the assignment (in the English Language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37

> CFR 1.47(b) applicant prior to the date the application is deposited in the Patent and Trademark Office. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324) . . .
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by affidavit or declaration that those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.
>
> A proprietary interest obtained otherwise than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record."

Regarding Item (5), petitioner has not demonstrated that applicant has a proprietary interest in the invention. Petitioner has provided a copy of an Employment Agreement for Dr. Boris Glushko and Appendix A; Minutes of First Meeting of Members of OMD Devices, LLC; and a Translation of the TriD Store Ltd. letter dated 01 June 1997. As stated in section 409.03(f) of the M.P.E.P. when such an employment agreement is relied uon, it must be established by the affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant. An affidavit or declaration of a person having firsthand knowledge of the facts that the invention was made by the employee while employed has not been provided. Additionally, The Minutes of First Meeting of Members of OMD Devices, LLC and the Translation of the TriD Store Ltd. letter dated 01 June 1997 has been considered and does not appear to add any additional facts relevant to item (5). Moreover, there is no record of an assignment of the inventions from OMD Devices, L.L.C. to TriD Store Inc.

Petitioner states, "under MPEP §§306 and 306.01, 'assignments recorded against an original applciation give the assignees rights to the subject matter common to both application' . . . Such a proprietary interest has been shown by the papers of record, specifically, the assignment and other papers executed in the priority application and the indication of the application in the PCT international

application." Petitioner assertion is incorrect. It is noted that the copy of the assignment document filed in the prior PCT international application No.PCT/IL98/00410 and Israeli Patent Application no 121620 is not clearly effective in the present national stage application, in part because the application is claiming priority benefits under 35 U.S.C. 119 (a) - (d), not subsection (e). In MPEP § 306 it is indicated that a prior assignment is not applied to a continuation-in-part application since the assignment document, in effect, applies only to the common subject matter of both applications. Accordingly, 37 CFR 1.47(b) have not established that they have the entire right, title and interest of the present application assigned to them.

Accordingly, it is not appropriate to accord the national stage application status under 37 CFR 1.47(b) at this time.

CONCLUSION

The renewed petition filed under 37 CFR 1.47(b) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO MONTHS** from the mailing date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(b)."

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Legal Affairs Division of the PCT Legal Office.

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In re Application of GLUSHKO et al. Application No.: 09/297,030 PCT No.: PCT/IL98/00410 Int. Filing Date: 26 August 1998 Priority Date: 26 August 1997 Attorney Docket No.: 0744.078 For: READING METHOD AND APPARATUS FOR A THREE-DIMENSIONAL INFORMATION CARRIER	:	DECISION ON PETITION UNDER 37 CFR 1.47(b)

This decision is in response to the (third) "RENEWED PETITION UNDER 37 CFR 1.47(b)" filed 07 November 2001. In a decision dated 31 May 2001 the (second) "RENEWED PETITION UNDER 37 CFR 1.47(b))" filed 20 February 2001 was dismissed because applicant did not provide adequate proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application.

The petition for status under 37 CFR 1.47(b) is moot since the declaration filed 07 November 2001 with the present renewed petition was executed by the named inventors, the previous non-signing inventors, Boris Glushko and Vladimir Krupkin. However, the declaration filed 07 November 2001 is not acceptable under 37 CFR 1.497. Specifically, the declaration is illegible in that the left side of page 1 has been deleted due to the copying process.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(b) is **DISMISSED** as MOOT. The application need not be returned to this Office for any further consideration of Rule 1.47 status and no such status should be indicated on this application file.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision and must include a proper declaration in compliance with 37 CFR 1.497 executed by all of the named inventors. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

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In re Application of GLUSHKO et al. Application No.: 09/297,030 PCT No.: PCT/IL98/00410 Int. Filing Date: 26 August 1998 Priority Date: 26 August 1997 Attorney Docket No.: 0744.078 For: READING METHOD AND APPARATUS FOR A THREE-DIMENSIONAL INFORMATION CARRIER	: : : : : : : :	NOTIFICATION OF DEFECTIVE DECLARATION

This notification is in response to "Transmittal of Declaration" filed 11 February 2002. In a decision dated 24 January 2002, the (third) "RENEWED PETITION UNDER 37 CFR 1.47(b))" filed 07 November 2001 was dismissed as moot since the declaration filed 07 November 2001 with the renewed petition under 37 CFR 1.47(b) was executed by the named inventors, Boris Glushko and Vladimir Krupkin. However, the previous decision stated the declaration filed 07 November 2001 was not acceptable because the declaration was illegible and that applicant was required a declaration in compliance with 37 CFR 1.497.

DISCUSSION

The declaration filed 11 February 2002 is not in compliance with 37 CFR 1.497(a) in that it is not a true copy of the declaration filed on 07 November 2001. Specifically, the declaration filed 11 February 2002 has deleted information that was contained on the declaration filed 07 November 2001 and these alterations have been made to the declaration without being initialed by the applicant.

37 CFR 1.52(c) states:

(c) Any interlineation, erasure, cancellation or other alteration of the application papers filed should be made before the signing of any accompanying oath or declaration pursuant to § 1.63 referring to those application papers and should be dated and initialed or signed by the applicant on the same sheet of paper. Application papers containing alterations made after the signing of an oath or declaration referring to those application papers must be supported by a supplemental oath or declaration under 1.67.

Further, section 602.01 of the Manual of Patent Examining Procedure (MPEP) states, in part:

The wording of an oath or declaration cannot be amended altered or changed in any manner after it has been signed. If the wording is not correct or if all of the required affirmations have not been made, or if it has not been properly subscribed to, a new oath or declaration must be required.

Finally, section 605.04(a) of the MPEP further emphasizes this point by stating, in part:

In summary, it is emphasized that the application filed must be the application executed by the applicant and **it is improper for anyone, including counsel,** to alter, rewrite, or partly fill in any part of the application, **including the oath or declaration,** after execution of the oath or declaration by the applicant (emphasis added).

Therefore, the copy of the declaration filed cannot be accepted at this time.

CONCLUSION

A proper response must include a declaration in compliance with 37 CFR 1.497 executed by all of the named inventors. Applicant is required to complete the response within the time remaining set forth in the Decision, mailed 24 January 2002. The period for response set in the Notification of Missing Requirement may be extended up to a maximum of five months, i.e., 24 June 2002.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.

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OFFICE OF PETITIONS

In re Application of
Boris Glushko, et al.
Application No. 09/297,030
Filed: May 10, 2002
Attorney Docket No: 23873

ON PETITION

This is a decision on the petition, filed August 5, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before June 13, 2005. Receipt is acknowledged of the requisite issue fee on August 5, 2005.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No: __

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OFFICE OF PETITIONS

In re Application of
Bryant :
Application No. 09/297,038 :
Filing Date: 26 April, 1999
Attorney Docket No. 6715/56610 :

This is a decision on the petition filed on 31 January, 2005, alleging, *inter alia*, unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- a final Office action was mailed on 7 April, 2004;
- Petitioner filed an amendment after final on 12 July, 2004, over a 7 July, 2004, certificate of mail;
- on 18 November, 2004, the Examiner mailed an Advisory Action indicating, *inter alia*, that the amendment after final did not place the application in condition for allowance;
- thus, Petitioner failed to reply timely and properly to the final Office action of 7 April,

2004, with a reply due absent extension of time on or before 7 July, 2004;

- the application went abandoned after midnight 7 July, 2004;
- no Notice of Abandonment was mailed before the original petition was filed;
- accompanying the original petition under 37 C.F.R. §1.137(a) was a request for continued examination (RCE) with fee, and Petitioner has identified his amendment after final as his submission under the regulation, however, that petition was dismissed for failure to satisfy the showing requirement as to unavoidable delay;
- in the instant petition and fee, Petitioner alleges and makes the statement of unintentional delay, and he previously has provided a reply (REC, fee and submission in the form of the after-final amendment).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing/statement of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The application is released to Technology Center 2600 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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Paper No. 26

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JUL 18 2002

In re Application of	:	
LARSSON et al.	:	DECISION
Application No. 09/297,606	:	ON PETITION
Filed: June 18, 1999	:	
Attorney Docket No. 66291-137-2	:	

This is a decision on the petition, filed April 29, 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, April 29, 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

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Paper No. 22

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APR 11 2002

In re Application of	:	
LARSSON et al.	:	DECISION
Application No. 09/297,606	:	ON PETITION
Filed: June 18, 1999	:	
Attorney Docket No. 66291-137-2	:	

This is a decision on the petition, filed March 14, 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). Petitioner also requests a second suspension of time for 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.*

A review of the record indicates that an Office Action was mailed on October 29, 2001. To date, no reply to the outstanding Office Action has been received. Accordingly, Petitioner's request for suspension of action in this application under 37 CFR1.103(a) is denied as being improper. The period for response to the outstanding Office Action continues to run three (3) months from the October 29, 2001, mail date.

The petition is **DENIED**.

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

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Paper No. 25

John P. De Luca
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Washington, D.C. 20005

NOV - 6 2002

In re Application of	:	
CARSTENSEN et al.	:	DECISION
Application No. 09/297,607	:	ON PETITION
Filed: June 18, 1999	:	
Attorney Docket No. 66291-049-2	:	

This is a decision on the petition, filed September 12, 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, September 12, 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
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

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RESPONSE TO DECISION
2-1-00

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PATENT & TRADEMARK OFFICE

Paper No. 11

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Oblon Spivak McClelland Maier & Neustadt
1755 Jefferson Davis Highway
Fourth Floor
Arlington VA 22202

In re Application of
Mats Leijon, et al
Application No. 09/147,325
Filed: February 17, 1999
Attorney Docket No. 9847-0001-6X

: RESPONSE TO PETITION UNDER 37 CFR 1.182 SEEKING SPECIAL TREATMENT RELATING TO AN ELECTRONIC SEARCH TOOL, AND DECISION ON PETITION UNDER 37 CFR 1.183 SEEKING WAIVER OF REQUIREMENTS UNDER 37 CFR 1.98

This is a response to a September 29, 1999 Petition Under 37 CFR 1.182, requesting relief from the current requirements for Information Disclosure Statements under 37 CFR 1.98 in view of the need to file multiple applications relating to different aspects of a particular invention. The petition will be treated as two separate petitions: a first petition under 37 CFR 1.182, relating to submission of an electronic search tool and the need to protect proprietary information therein, and a second petition under 37 CFR 1.183, requesting relief from the § 1.98 provision which requires filing paper copies of references being cited in each of many related applications.

A Decision on the petition under 37 CFR 1.182 re the electronic search tool will be issued in due course.

The petition under 37 CFR 1.183 re the submission of 3 paper copies of IDS citations in a holding application is Granted to the extent set forth below.

The Decision is set forth in five parts:

- Part I. Background
- Part II. Petition Under 37 CFR 1.182 - Electronic Search Tool
- Part III. Petition Under 37 CFR 1.183 - Paper Copies

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- Part IV. Summary
- Part V. Further Correspondence

Part 1. Background

The instant national stage application filed under 35 U.S.C. 371 currently contains claims 77-153 with three independent claims. The instant application is one of about 200 U.S. applications (either filed or to be filed) with each U.S. application having as many as 40 corresponding foreign applications (either filed or to be filed), the applications relating to different aspects of the invention. An Information Disclosure Citation List has been submitted that lists 259 U.S. patents, 369 foreign patent documents, and 43 other references for a total of 671 citations. Additionally, a list of related cases has been supplied containing 31 U.S. applications and 52 PCT applications. Paper copies have not been supplied in the related applications of any of the citations or the identified related cases.

37 CFR 1.56(b)(1) requires disclosure to the Office of 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 Information Disclosure Statement (IDS) in the manner prescribed by 37 CFR 1.97 and 1.98. 37 CFR 1.56(a).

Petitioner asks "[w]hether the information cited in the manner proposed in [petition] Section 3.1.1 ... is a disclosure that is sufficient to meet the requirements of 37 CFR § 1.56." To the extent that this question refers to the content of the disclosure and the particulars of the subject applications, the Office will not answer the question. It is Office practice not to attempt to define how an individual "ensures" compliance with the rule in a particular application. See, e.g., MPEP 2004. Because determinations on this issue require an evaluation of the intent of the party involved, the Office declines to investigate the question. See MPEP 2010. To the extent that Petitioner's question concerns the form in which the disclosure is provided, rule 56 permits a disclosure in a combination of paper and electronic formats.

Petitioner, in addition to meeting the duty set forth in 37 CFR 1.56 to disclose material information, also wishes to disclose to the Office information that may not meet the definition of

materiality as set forth in the rule[1]. Information identified by U.S. or foreign examiners in any of the related U.S. and foreign applications would be cited in each of the related U.S. applications.[2] In addition, Petitioner seeks to submit other information in each of the related U.S. applications, such as all the co-pending U.S. applications that relate to the invention (useful for determining possible double patenting rejections), and foreign search reports. Petition, page 4.

Rather than be required to submit, via a paper copy, each piece of information in each application each time the information is obtained, Petitioner seeks to have:

(1)(a) one application (the instant application) identified as a "holding" application which would contain a complete set of paper copies of references; the paper copies to be submitted in only the "holding" application;

(b) the other related pending U.S. applications, hereafter referred to as the bulk filing applications, will not contain the paper set of reference copies but will contain other information, e.g., a copy of the decision on petition[3] permitting such procedure and a copy of the Form 1449 (or equivalent);[4] and

(2) an "electronic search tool"[5] containing different types of information.

The information supplied via the paper copies would be updated monthly, rather than as received from U.S. and foreign examiners, and cancellation of this arrangement would be an option for both

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[1]Reference to MPEP 2001.05, Petition, page 3.

[2]Petition, page 3. The present petition requesting relief does not set forth any commitment nor intent by applicant to screen such information for relevancy to each of the U.S. applications in which the information is being cited.

[3]The original of which would be in the instant holding application.

[4]See, Petition under 37 CFR 1.182, *infra*.

[5]See, Petition under 37 CFR 1.183, *infra*.

Petitioner and the Office upon notice. These, and other more specific conditions, are discussed in further detail in regard to the § 1.182 petition, below.

Petitioner has essentially requested relief in two areas: (1) treatment of information in an electronic search tool, to be submitted independent of any particular application, as in compliance with IDS submission requirements for all bulk filing applications, and (2) the ability to provide the paper copies of each reference in an IDS submission in only one of the bulk filing applications (the instant holding application) as well as two additional sets of copies rather than as is normally required in each application for which the reference (IDS citation) is to be considered. These two areas of relief are independent of each other and drawn toward different regulations. Accordingly, the petition has been treated as two petitions, and the present decision addresses the two areas of requested relief separately. While it is undeniable that relief in both areas would be of benefit to Petitioner, the granting of relief in one area does not, in fact, require the granting of relief in the other. Moreover, in view of the need to further consider the requested relief related to the electronic search tool, deciding the requested relief issues separately permits at this time a partial grant of the original petition.[6]

Part II. Petition under 37 CFR 1.182- Electronic Search Tool

The issues involving the electronic search tool are more extensive than those relating to the requirement for paper copies in each bulk filing application and more time is needed to fully consider and address them. Accordingly, the petition under § 1.182 shall not be decided at this time and is not treated in the instant decision on the § 1.183 petition although it will continue to be considered, with a decision rendered in due course.

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[6]It is recognized that petitioner believes the issues presented by the petition may not be decided independent of one another as both the paper copy issue and the electronic search tool issue represent the most complete solution to duty of disclosure issues under 37 CFR 1.56, Petition, fn. 5.

Part III. Petition Under 37 CFR 1.183 - Paper Copies

The submitted petition fee of $130 will be treated as the § 1.183 petition fee.

37 CFR 1.98 requires that any information disclosure statement provide a copy of all patents, publications or other information submitted under 37 CFR 1.97 for consideration by the Office. 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, page 600-102, right-hand column, and page 600-103, left-hand column.

Paper copies: Petitioner notes that the instant application is one of 200 bulk filing applications that will be or have been filed in regard to a particular technology. Accordingly, Petitioner requests that individual paper copies of each reference, brought to the attention of the Office in regard to any one individual application, not be required to be submitted in each such application. Rather, it is requested that three complete sets of paper copies be permitted to be filed: one set for the instant application which will be designated as a holding application; one set to be used to establish new subclasses for the technology; and one set to be used as a reference set should either or both of the other two sets become corrupted (Petition, pages 6 and 7).[7]

Once past the initial IDS submission, it is proposed that applicant would update the IDS submissions once a month, rather than every time a new reference is found, although the time frames required by § 1.97 would have to be complied with, which may mean that submissions may occur more frequently than once a month.

Form 1449: In addition to submission of the three sets of paper copies in the instant "holding" application, the petition proposes that each of the bulk filing applications would receive a Form 1449 listing the reference citations (Petition, page 7) and the Form 1449 (in each of the bulk filing applications) would be updated, pursuant to the time requirements of § 1.97, each time the three sets of paper copies are updated. The petition is

[7]It would presumably up to the Technology Center to determine how best to store the reference set and how it is to be accessed.

silent as to whether other types of information that may be submitted in the holding application IDS, e.g., concise explanations of foreign language documents under § 1.98(a)(3), would also be supplied in all the bulk filing applications.

Suspension of action: In view of the use of the instant application as a holding application (to contain a complete set of paper copies of reference citations, which can be consulted by the examiner when examining any of the other bulk filing applications that have a Form 1449 but not the paper copies), the petition states that upon allowance of the instant holding application the right is reserved to file a petition to suspend action in the instant application so that the application can remain as the holding application (Petition, page 7). Alternatively, upon agreement of the Assignee and a Director of the Technology Center involved, an alternate application may be designated as the holding application.

New subclasses: The petition envisions an affirmative duty on the Technology Center to establish new subclasses that will include each of the references submitted during the course of prosecution of the bulk filing applications.[8] In addition, the Office is to agree that "[e]xaminers will be required to search these newly created subclasses" (from submissions by the Assignee and later by others) "as part of the routine patent prosecution process." Petition, page 8.

Termination: Petitioner seeks a right of termination,[9] which is to be a mutual option. Termination is to be by written notice, to the attorney of record if the Office terminates and the filing of a termination request and by contacting the Director of TC 2800 if applicant terminates. Conventional IDS procedures would begin three months after notice of termination.

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[8]The new subclasses will later be supplemented by references supplied by others who may file applications related to the same technology.

[9]Although termination is discussed under a section related to licensing of the electronic search tool and the petition generally (Petition, pages 10 and 11), it is presumed that Petitioner intends to have the termination provision apply to the waiver of paper copies if that alone is granted.

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 applicant be spared the necessity of submitting duplicative paper copies of references in 200 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 to different examiners handling the various applications,[10] on balance, there is seen to be sufficient benefit to justify waiver in this instance.

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.[11]

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[10]Even thought the technology of the applications may be related, the specific claims of the applications may require different classifications of the applications and the quantity of applications would dictate the need for more than one examiner to timely examine the applications.

[11]The waiver being granted in this instance is not intended to set a general precedent where there is more than one application containing related subject matter. The Office, however, intends to use the instant grant to study whether the opportunity for waiver can be extended to other applicants in similar circumstances, and whether a more general program can be announced. One factor that will be considered is the extent to which relevant information (that may not be necessarily required by § 1.56(b) but which would nonetheless be useful to the examiner, e.g., § 1.56(a)(1) and (2)), is submitted rather than huge dumps of nonrelevant or marginally relevant information.

It is noted that while the petition only refers to the submission of citations that are made by both U.S. and foreign examiners, the term "include" is used (Petition, page 2) which is open ended. The Petition states that it is the intention to submit a copy of every reference identified both by U.S. examiners in the 200 U.S. applications and by foreign examiners in as many as 40 corresponding foreign applications for each U.S. application (Petition, page 3). It has not been stated whether the current 671 reference citations currently of record represent only those citations made by U.S. and foreign examiners or whether they include citations from other sources, such as a

The § 1.98(a)(2) requirement for (the submission of) a copy of each IDS citation in a bulk filing application will be waived in the bulk filing application provided that the following 8 conditions are complied with:

1) Three paper copies of each IDS citation are or have been submitted to the Office;

2) The (bulk filing) application for which waiver of § 1.98(a)(2) is desired refers to the instant holding application, such as by a claim of priority under 35 U.S.C. 120, or as containing related technology;

3) The information is or has also been cited in the holding application;

   Note: Applicant is not required to cite in each bulk filing application every item of information that is cited in the instant 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.

   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 instant holding application.

4) A copy of this Decision is filed in the bulk filing application;

5) Explanatory information related to a particular citation, such as the concise explanation of a foreign language reference under § 1.98(a)(2), once submitted in the holding application must be supplied in each bulk filing application where the citation is made.

6) 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

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preexamination search or third party citations. See also Petition, page 19.

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 applicant may be by returning to compliance with § 1.98(a)(2) without formal notice thereof and no transition/continuing period after termination is required.

7) The grant of the § 1.183 petition re § 1.98(a)(2) does not indicate that the Office would favorably treat a petition to suspend action under § 1.103(a) should the instant application be allowed. Issuance of the instant application as a patent is not seen to terminate its usefulness either: (1) as a holding application for references by examiners working on other related applications,[12] or (2) as a vehicle for the storage of references to be cited even after the patent issues (35 U.S.C. 301, 37 CFR 1.501, and MPEP 2202). Should the instant application become abandoned, the issue of continued introduction of paper copies of new citations could be taken up at that time. The Office, however, may consider suspending or taking other appropriate action in the instant holding application in the event the holding application is allowed, if it is in the best interest of the Office to do so.

8) The Office has established a series of Official Digests in Class 174 based on the technology represented by the instant invention (a classification schedule thereof is attached). As is the case will all Digests, their usefulness will be continually evaluated. The Office will place the holding application's references in the Digests as they are determined to require such placement and as new ones are brought to the attention of the Office either by Petitioner or a third party. A search of the Digests themselves or what they contain (such as the holding application or reference copy sets), either in paper copy or electronic form, will be

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[12]The patent file can be kept in the Technology Center for easy reference, or rather than rely upon the patent, either the reference set of paper copies could be utilized, or the Office may decide to rely on the Digests being created.

conducted when mandatory based on the classification of the claims, or when deemed advisable - on a case by case basis.

Part IV. Summary

A Decision on the Petition under 37 CFR 1.182, drawn toward submission of the electronic search tool, will be acted upon in due course when all outstanding issues are resolved.

The petition under 37 CFR 1.183 agreeing to supply three copies of each IDS citation in a holding application and requesting waiver of the paper copy requirement for submission in every related application under § 1.98(a)(2) is granted, however, the following is not agreed to:

- the grant of a future petition under 37 CFR 1.103 for suspension from publication of the holding application should it be allowed,
- the required search of subclasses from one of the three sets of paper copies and placement of one of the other sets of paper copies therein, and
- any termination provision more than two months (rather than the three months that the petition sets forth) from notice of termination.

Part V. Further Correspondence

Further correspondence with respect to this matter should be addressed to Hiram H. Bernstein, Senior Legal Advisor, Special Program Law Office, as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Special Program Law Office
Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to Mr. Bernstein at (703) 305-9285.

The instant application will be retained by this Office: for a period of TWO MONTHS to await any response to the instant Decision, and for the purpose of continuing review of the § 1.182 petition re the electronic search tool.

Robert J. Spar
Director
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Attachment: List of Digests 13-33

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 28 2004

JANE E. REMILLARD
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

In re Application of	:
Richard Edward Thomas	:
Serial No.: 09/297,652	: PETITION DECISION
Filed: July 8, 1999	:
Attorney Docket No.: MIJ-001	:

This is in response to the petition under 37 CFR 1.181, filed April 6, 2004, for withdrawal of abandonment of the above identified application based on failure to receive an Office action. .

A review of the file history shows that the examiner mailed an Office action to applicants on July 11, 2003, setting a three month shortened statutory period for reply. Upon failure to receive a reply the Office mailed a Notice of Abandonment to applicants on March 9, 2004. Applicants state that the Office action was never received and provide a statement and copies of docket records establishing that the Office action was never received. In view of the evidence presented the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for mailing of a new Office action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

08 MAR 2005

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ALEXANDRIA, VA 22313-1450
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BRYAN CAVE LLP
1290 Avenue of Americas
New York, NY 10104

In re Application of	:	
BASTIOLI et al	:	DECISION ON
Application No.: 09/297,733	:	
PCT No.: PCT/EP97/06103	:	PETITION
Int. Filing Date: 05 November 1997	:	
Priority Date: 05 November 1996	:	
Attorney's Docket No.: C13929/11003	:	
For: BIODEGRADABLE POLYMER COMPOSITION:		
COMPRISING STARCH AND A THERMOPLASTIC	:	
POLYMER	:	

This application is before the PCT Legal Staff for consideration of matters arising under 35 U.S.C. 371.

BACKGROUND

On 05 November 1997, applicant filed international application PCT/EP97/06103, which claimed priority of an earlier European application filed 05 November 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 1998, 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 05 May 1999.

On 05 May 1999, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia,: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); and the surcharge for filing the oath or declaration later than 30 months from the priority date as required by 37 CFR 1.492(e). An oath or declaration as required by 35 U.S.C. 371(c)(4) was not filed.

On 11 June 1999, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating than an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 01 July 1999, a declaration for another application was filed in this application.

On 14 July 1999, the United States Designated/Elected Office mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicating a 35 U.S.C. 102(e) and 35 U.S.C. 371 date of 01 July 1999.

On 13 August 1999, the applicant filed a proper declaration for the present application. The declaration was accompanied by a certificate of mailing under 37 CFR 1.181 dated 11 August 1999.

On 03 August 2000, a first Office action on the merits was mailed to the attorney listed in the declaration improperly filed on 01 July 1999.

On 09 April 2001, a Notification of Abandonment was mailed to the attorney listed in the declaration improperly filed on 01 July 1999.

DISCUSSION

It is clear from the above facts and a review of the application that the declaration filed on 01 July 1999 was not proper for this application. Accordingly, the Notification of Acceptance mailed 14 July 1999 was erroneous. Additionally the Office action of 03 August 2000 and the Notification of Abandonment were mailed to the wrong attorney.

Therefore the Notification of Acceptance mailed 14 July 1999 and the Notification of Abandonment mailed 09 April 2001 are hereby VACATED. The declaration filed on 01 July 1999 has been removed from this file and placed in the correct file.

CONCLUSION

A corrected Notification of Acceptance under 35 U.S.C. 371 (Form PCT/DO/EO/903) showing a 35 U.S.C. 371(c)(1), (c)(2) and (c)(3) date of 13 August 1999 and a corrected filing receipt are being mailed with this decision. Afterwards the application will be returned to the Technology Center for the remailing of the first Office action.

Leonard E. Smith
PCT Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

Telephone: (571) 272-3297
Facsimile: (571) 273-0459

cc: Notification of Acceptance
Official Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/297,733	08/13/1999	1711	1015	C13929/11003		24	2

CONFIRMATION NO. 1198
CORRECTED FILING RECEIPT
OC000000015383630
OC000000015383630

BRYAN CAVE LLP
1290 Avenues of the Americas
New York, NY 10104

Date Mailed: 03/08/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

HANS PETER RATH, GRUNSTADT, GERMANY;
IRENE TROTSCH-SCHALLER, BISSERSHEIM, GERMANY;
DIETMAR POSSELT, HEIDELBERG, GERMANY;
BERNHARD GEISSLER, KIRCHHEIM, GERMANY;
JOHANN PETER-MELDER, NEUHOFEN, GERMANY;
JOACHIM ROSCH, LUDWIGSHAFEN, GERMANY;

Power of Attorney:

Maurice Stiefel--18479
Marc Gross--19614
Birgit Morris--24484
Lawrence Kurland--24895
Stephen Gilbert--27893
Joseph Root--30678
Elizabeth Barnhard--31088
N Wilson--38661

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP97/06103 11/05/1997

Foreign Applications

GERMANY 19645430.1 11/04/1996

If Required, Foreign Filing License Granted: 03/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/297,733

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

BIODEGRADABLE POLYMERIC COMPOSITIONS COMPRISING STARCH AND A THERMOPLASTIC POLYMER

Preliminary Class

524

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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U.S. APPLICATION NO.		FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/297,733		BASTIOLI	C13929/1103

BRYAN CAVE LLP
1290 Avenue of the Americas
New York, NY 10104

INTERNATIONAL APPLICATION NO.
PCT/EP97/06103

I.A. FILING DATE	PRIORITY DATE
11/05/97	11/05/96

DATE MAILED: 03/08/2005

NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as ☐ a Designated Office (37 CFR 1.494), ☒ an Elected Office (37 CFR 1.495), has determined that the above-identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

13 AUG 1999	13 AUG 1999
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. *The filing date of the above-identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3. ☐ A request for immediate examination under 35 U.S.C. 371(f) was received on _____ and the application will be examined in turn.

4. The following items have been received:
- ☒ U.S. Basic National Fee.
- ☒ Copy of the international application.
- ☐ Translation of the international application into English.
- ☒ Oath or Declaration of inventors(s).
- ☐ Copy of Article 19 amendments. ☐ Translation of Article 19 amendments into English.
  The Article 19 amendments ☐ have ☐ not been entered.
- ☒ The International Preliminary Examination Report in English and its Annexes, if any.
- ☒ Copy of the Annexes to the International Preliminary Examination Report (IPER).
  ☐ Translation of Annexes to the IPER into English.
  The Annexes ☒ have ☐ not been entered.
- ☐ Preliminary amendment(s) filed _____ and _____.
- ☒ Information Disclosure Statement(s) filed 05 MAY 1999 and 28 AUG 2000.
- ☒ Assignment document.
- ☒ Power of Attorney and/or Change of Address.
- ☐ Substitute specification filed _____.
- ☒ Indication of Small Entity Status.
- ☒ Priority Document.
- ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
- ☐ Other:

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5).

Leonard E. Smith
Telephone: ~~(703)~~ 571-272-3297

FORM PCT/DO/EO/903 (March 2001)

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

SEP 18 2000

Richard J. Traverso
Millen, White, Zelano & Branigan, P.C.
Arlington Courthouse Plaza I, Suite 1400
2200 Clarendon Boulevard
Arlington, VA. 22201

In re Application of
QUARTARARO, et al.
PCT No.: PCT/FR97/02005
U.S. Application No.: 09/297,737
Int. Filing Date: 07 November 1997
Priority Date: 07 November 1996
Attorney Docket No.: PET 1761
For: CATALYST HAVING AT LEAST ONE ELEMENT OF GROUP VIIB AND ITS USE HYDRO-TREATING

DECISION ON REQUEST TO WITHDRAW NOTIFICATION OF ABANDONMENT

This decision is in response to applicant's, "Request to Withdraw an Incorrect Notice of Abandonment" filed on 06 March 2000. The request is being treated as a petition under 37 CFR 1.181.

BACKGROUND

On 07 November 1997, applicant filed international application PCT/FR97/02005, which claimed priority of an earlier application filed 07 November 1996. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 03 June 1998, 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 07 May 1999.

On 07 May 1999, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a translation of the International Application into English as required by 35 U.S.C. 371(c)(2). An oath or declaration as required by 35 U.S.C. 371 (c)(4) was not included.

On 22 June 1999, applicant was mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) advising applicant that an oath or declaration of the inventors was missing from the application. The notification set a ONE (1) MONTH period for response.

Application No.: 09/297,737

On 04 February 2000, applicant was mailed a Notification of Abandonment for having failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905).

On 06 March 2000, applicant filed the present petition requesting withdrawal of the holding of abandonment.

DISCUSSION

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. The Petition must also be accompanied by (4) 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).

Applicants' petition fails to satisfy items (2)-(4) above. Applicants' counsel attests that the Office action was not received and submits a printout from counsel's computer docketing system showing the "Application Status Check" is still an open item for the above-identified application. However, applicant has not indicated that a search of the file jacket has been performed. In addition, applicant has not provided copies of the docket records where the non-received Office action would have been entered. Applicant must provide a copy of the docket record for **all** communications received at the practitioner's office having a due date of 22 July 1999.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

CONCLUSION

The Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 has been considered, however, for the reasons indicated above, the petition stands **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of 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 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

Any renewed petition filed must include a proper reply. A proper reply must include a copy of the docket record for all communications received at practitioner's office having a due date of 22 July 1999.

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.

Boris Milef
Legal Examiner
PCT Legal Office

Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
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In re Application of QUARTARARO, et al. PCT No.: PCT/FR97/02005 U.S. Application No.: 09/297,737 Int. Filing Date: 07 November 1997 Priority Date: 07 November 1996 Attorney Docket No.: PET 1761 For: CATALYST HAVING AT LEAST ONE ELEMENT OF GROUP VIIB AND ITS USE HYDRO-TREATING	DECISION ON RENEWED PETITION UNDER 37 CFR 1.181

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.181" filed in the United States Patent and Trademark Office on 16 October 2000.

BACKGROUND

On 18 September 2000, applicant was mailed a decision dismissing applicant's request to have a Notification of Abandonment withdrawn. Applicant had not shown sufficient evidence that a Notification of Missing Requirements (Form PCT/DO/EO/905) had not been received by applicant. Applicant was given two months in which to respond.

On 16 October 2000, applicant responded with the present renewed petition.

DISCUSSION

As stated in the previous decision, 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. The Petition must also be accompanied by (4) 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 previously failed to satisfy items (2) - (4). However, with the present petition

applicant has provided sufficient evidence that a search of the application file jacket and counsel's docket records indicates that the Office action was not received. In addition, applicant has now provided a copy of counsel's docket records where the non-received Office action would have been entered. Applicant has now satisfied all the necessary items.

CONCLUSION

Applicant's Renewed Petition Under 37 CFR 1.181 is **GRANTED**.

The Notification of Abandonment mailed 04 February 2000 is hereby **VACATED**.

This application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision and the re-mailing of a Notification of Missing Requirements (PCT/DO/EO/905) and Notice of Defective Translation (PCT/DO/EO/913).

Boris Milef
Legal Examiner
PCT Legal Office

Derek A. Putonen
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Patent Cooperation Treaty Legal Office

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Washington, D.C. 20231

14 JUN 2000

Michele K. Yoder
JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

In re Application of	:	
OLSSON, Sven, Gunnar et al.	:	
Application No.: 09/297,798	:	DECISION ON
PCT No.: PCT/SE97/01854	:	
Int. Filing Date: 06 November 1997	:	PETITION
Priority Date: 06 November 1996	:	
Attorney Docket No.: SG99127	:	UNDER
For: METHOD AND APPARATUS FOR	:	
DETERMINING INDIRECTLY THE	:	37 C.F.R. 1.181
CONCENTRATION OF SPECIFIC	:	
SUBSTANCE IN THE BLOOD	:	

This is a decision on applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed in the Patent and Trademark Office (PTO) on 13 March 2000. The petition is being treated as a petition under 37 C.F.R. 1.181 to withdraw the holding of abandonment in view of the policy published at 1156 OG 53, **Withdrawing the Holding of Abandonment When Office Actions Are Not Received**. No petition fee is required.

BACKGROUND

On 06 November 1997, applicants filed international application No. PCT/SE97/01854 that claimed a priority date of 06 November 1996, and designated the United States. On 04 June 1998, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for entry into the national stage in the U.S. was extended to expire 30 months from the priority date, i.e., 06 May 1999.

On 06 May 1999, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*,: the basic national fee and a copy of the international application.

On 14 June 1999, the United States Designated/Elected Office (DO/EO/US) mailed

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PCT/DO/EO/905). The notification set a ONE (1) MONTH period for response.

On 01 March 2000, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the applicant failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 14 June 1999, within the time period set therein.

On 13 March 2000, applicants filed the present request asking that the holding of abandonment in the case be withdrawn on the grounds that applicants did not receive the 14 June 1999 notification. The petition was accompanied by, *inter alia*: a copy of the Notification of Abandonment, a copy of the "docketing system" with respect to the instant application and a copy of the electronic master report for the instant application.

DISCUSSION

Petitioner asserts that the delay in responding was caused by nonreceipt of the Notification of Missing Requirements dated 14 June 1999. A proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement).

Applicants have satisfied item (1) above.

Concerning item (2) above, applicants have not provided a statement attesting that a search of the file jacket indicates that the papers were not received.

Concerning item (3) above, the petitioner has not presented a copy of the docket records, i.e., the attorney's docket record for all cases due on the response date 14 July 1999. The "docket system" and the "master report" offered by petitioner as evidence, is a single sheet showing only the above identified application on the sheet.

Therefore, since applicants have not satisfied items (2) and (3) above, the request may not be properly granted.

The case remains abandoned as of midnight on 14 July 1999. Applicants may wish to consider the filing of a petition to revive the application under 37 C.F.R. 1.137 either(a) or (b).

CONCLUSION

The petition under 37 CFR 1.181 to withdraw the Notice of Abandonment is **DISMISSED**.

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The application remains **ABANDONED**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT Legal, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Lissi Mojica Marquis
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-2260
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Conferee: Richard Cole
PCT Legal Examiner
PCT Legal Office

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James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

In re Application of OLSSON et al U.S. Application No.: 09/297,798 Int. Application No.: PCT/SE97/01854 Int. Filing Date: 06 November 1997 Priority Date: 06 November 1996 Attorney Docket No.: SG 99127 For: METHOD AND APPARATUS FOR DETERMINING INDIRECTLY THE CONCENTRATION OF A SPECIFIC SUBSTANCE IN THE BLOOD	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is in response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 08 March 2001.

BACKGROUND

On 06 November 1997, applicants filed international application PCT/SE97/01854, which claimed priority of an earlier Sweden application filed 06 November 1996. A copy of the international application was communicated to the USPTO from the International Bureau on 14 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 June 1998, 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 06 May 1999.

On 06 May 1999, applicants filed national stage papers in the United States. The submission included, *inter alia*, a Transmittal Letter, a copy of the international application, and the basic national fee required by 35 U.S.C. 371. The submission did not include an oath or declaration as required by 35 U.S.C. 371(c)(4).

On 14 June 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), which set a one month period for response.

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On 01 March 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the present application is abandoned for failure to timely respond to the Notification of Missing Requirements within the time period set therein.

On 13 March 2000, applicants filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment based on a purported failure to receive the Notification of Missing Requirements.

On 14 June 2000, the PCT Legal Office of the USPTO dismissed the 13 March 2000 petition on grounds that applicants had not provided sufficient proof of the alleged failure to receive the Notification of Missing Requirements.

On 08 March 2001, applicants filed the present petition under 37 CFR 1.137(b). The petition states that it is accompanied by a proper response, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

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), applicants have provided an acceptable reply.

With regard to item (2), the check for $1,240.00 to cover the required petition fee was returned unpaid due to a stop payment.

With regard to item (3), applicants have 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

Because applicants have failed to provide the required petition fee, the petition under 37 CFR 1.137(b) is DISMISSED without prejudice.

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If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include: a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)", the required $1,240.00 petition fee, and a $50.00 returned check processing fee (see 37 CFR 1.21(m).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Sincerely

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459

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NOV 1 6 2001

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James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

In re Application of OLSSON et al U.S. Application No.: 09/297,798 Int. Application No.: PCT/SE97/01854 Int. Filing Date: 06 November 1997 Priority Date: 06 November 1996 Attorney Docket No.: SG 99127 For: METHOD AND APPARATUS FOR DETERMINING INDIRECTLY THE CONCENTRATION OF A SPECIFIC SUBSTANCE IN THE BLOOD	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is in response to applicants' "Renewed Petition Under 37 CFR 1.137(b)" filed 07 September 2001.

BACKGROUND

On 06 November 1997, applicants filed international application PCT/SE97/01854, which claimed priority of an earlier Sweden application filed 06 November 1996. A copy of the international application was communicated to the USPTO from the International Bureau on 14 May 1998. A Demand for international preliminary examination, in which the United States was elected, was filed on 04 June 1998, 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 06 May 1999.

On 06 May 1999, applicants filed national stage papers in the United States. The submission included, *inter alia*, a Transmittal Letter, a copy of the international application, and the basic national fee required by 35 U.S.C. 371. The submission did not include an oath or declaration as required by 35 U.S.C. 371(c)(4).

On 14 June 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), which set a one month period for response. A copy of the Notification of Missing Requirements is attached to this decision.

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On 01 March 2000, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the present application is abandoned for failure to timely respond to the Notification of Missing Requirements within the time period set therein.

On 13 March 2000, applicants filed a petition under 37 CFR 1.181 to withdraw the holding of abandonment based on a purported failure to receive the Notification of Missing Requirements.

On 14 June 2000, the PCT Legal Office of the USPTO dismissed the 13 March 2000 petition on grounds that applicants had not provided sufficient proof of the alleged failure to receive the Notification of Missing Requirements.

On 08 March 2001, applicants filed a petition to revive the application under 37 CFR 1.137(b).

On 03 May 2001, the PCT Legal Office mailed a decision dismissing the 08 March 2001 petition for failure to supply the appropriate petition fee.

On 07 September 2001, applicants filed the present renewed petition. The renewed petition states that it is accompanied by the appropriate petition fee.

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), applicants have provided the required reply.

With regard to item (2), applicants have provided the required petition fee.

With regard to item (3), applicants have provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

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CONCLUSION

For the reasons set forth above, the renewed petition under 37 CFR 1.137(b) is GRANTED.

A proper response to the Notification of Missing Requirements, i.e. the submission of a properly executed oath or declaration in compliance with 37 CFR 1.497, must be filed within ONE (1) MONTH from the mail date of this decision. Extensions of time may be obtained pursuant to 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

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Paper No. 13

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BANK ONE CENTER TOWER SUITE 3700
INDIANAPOLIS, IN 46204

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JAN 0 2 2002

OFFICE OF PETITIONS

In re Application of	:	
Eva Sevick-Muraca et al	:	
Application No. 09/297,895	:	ON PETITION
Filed: June 30, 1999	:	
Attorney Docket No. 017575.0678	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 2001, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 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 May 28, 2001.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified

application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 305-9282.

The application file is being forwarded to Technology Center AU 2877.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: BANKER BOTTS
910 LOUISIANA
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HOUSTON, TX 77002-4995

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OFFICE OF PETITIONS

In re Application of	:	
Sevick-Muraca et al.	:	DECISION ON PETITION
Application No. 09/297,895	:	
Filed: 30 June, 1999	:	
Atty Docket No. 0017575.0678	:	

This is a decision on the under 37 CFR 1.137(b),[1] filed on 6 July, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 8 June, 2002, for failure to file a timely reply to the final Office action mailed on 7 March, 2002, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were filed in

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

accordance with 37 CFR 1.136(a). Notice of Abandonment was mailed on 11 December, 2002.

Petitioners have filed an amendment after final rejection along with a Terminal Disclaimer.

As the examiner has now indicated that the reply filed on 6 July, 2005, places the application in *prima facie* condition for allowance if the Terminal Disclaimer is proper, the petition is granted.

Receipt of the Terminal Disclaimer filed on 6 July, 2005, is acknowledged. The Terminal Disclaimer has been entered in Office records.

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.[2]

Receipt of the revocation and power of attorney and change of correspondence address filed on 27 January, 2005, is acknowledged.

This application is being forwarded to Technology Center 2800 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

---

[2] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON, MA 02110

COPY MAILED

MAY 09 2005

OFFICE OF PETITIONS

In re Application of	:	
Goran Marnfeldt, et al.	:	
Application No. 09/297,899	:	ON PETITION
Filed: May 10, 1999	:	
Attorney Docket No. 06275/184001	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 10, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed March 12, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 14, 2004.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6170950
Issue Date: January 9,2001
Application No. 09298088
Filed: April 22,1999
Attorney Docket No. 38195.17

:
: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)
6,170,950	2001-01-09	09/298,088	1999-04-22	OKA 128

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required 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 H. Berdo, Jr./	Date (YYYY-MM-DD)	2009-04-20
Name	Robert H. Berdo, Jr.	Registration Number	38075

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 5

FISH & RICHARDSON PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

COPY MAILED

JAN 2 8 2002

OFFICE OF PETITIONS

In re Application of :
Eric R. Fossum et al :
Application No. 09/298,306 :
Filed: April 23, 1999 :
Attorney Docket No. 08305/035001/97-05 :

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 2612.

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, DC 20231
www.uspto.gov

Paper No. 7

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

MAILED

JAN 3 1 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application Serial No.:
09/298,306

ON REQUEST TO
WITHDRAW AS ATTORNEY

The Request to Withdraw as Attorney is **GRANTED**.

Further communications will be directed to the address listed below until such a time as applicant properly notifies the Patent and Trademark Office of a change of address. This address has been provided by the withdrawing attorney(s).

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Micron Technology, Inc.
C/o Tom D'Amico
Dickstein, Shapiro, Moran & Oshinsky
2101 L Street NW
Washington DC 20037-1526

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL L. GOLDMAN
NIXON & PEABODY LLP
LINTON SQUARE
P O BOX 31051
ROCHESTER, NY 14603

COPY MAILED

SEP 14 2005

OFFICE OF PETITIONS

In re Application of	:
David E. Briles et al	:
Application No. 09/298,523	: DECISION GRANTING PETITION
Filed: April 23, 1999	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 454312-3140	:

This is a decision on the petition, filed September 6, 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 11, 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 1645 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement filed September 8, 2005.

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), 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

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Patent No. 6,982,695 :
Issue Date: January 3, 2006 :
Application No. 09/298,538 : NOTICE
Filed: April 22, 1999 :
Attorney Docket No. 60072-0725 :

This is a notice regarding your communication filed December 28, 2009, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The request is **DISMISSED**.

The petition does not comply with the requirements under 37 CFR 1.28(c)(2)(ii), which states:

> (ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> > A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee; two-month extension of time fee) along with the currect fee amount for a non-small entity;
> >
> > (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
> >
> > (C) The deficiency owed amount (for each fee erroneously paid); and
> >
> > (D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Applicant is reminded of 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Applicant is given **ONE MONTH** to submit a complete listing of the fees erroneously paid as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper. This time period is not extendable under 37 CFR 1.136(a).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
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. 6621980
Issue Date: September 16,2003
Application No. 09298681
Filed: April 23,1999
Attorney Docket No. MNKYP006

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 7,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 7,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,621,980	2003-09-16	09/298,681	1999-04-23	MNKYP006

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Eric Justin Gould Bear, MONKEYmedia, Inc./	Date (YYYY-MM-DD)	2008-10-07
Name	Eric Justin Gould Bear, MONKEYmedia, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	010159	Frame Number	0906
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
www.uspto.gov

Paper No. 8

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

MAIL

NOV 04 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:)
Seng-Khoon Tng, et al.)
Application No.: 09/298,751)
Filed: April 23, 1999)
For: METHOD AND APPARATUS FOR)
EFFICIENT AND FLEXIBLE ROUTING)
BETWEEN MULTIPLE HIGH BIT-)
WIDTH ENDPOINTS)

DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed March 5, 2001.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney. 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.

The application file is being returned to the Technology Center's central files to await applicant's response to the outstanding non-final Office action which was mailed September 20, 2002.

Krista M. Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Ms. Susan Yee, Esq.
Carr & Ferrell, LLP
2225 East Bayshore Road, Suite # 200
Palo Alto, CA 94303

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

Kenyon & Kenyon
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/23/2010

Applicant	: RAHN WOOD	: DECISION ON REQUEST FOR
Patent Number	: 7624038	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/298,763	: OF WYETH
Filed	: 04/23/1999	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 29

VITA G CONFORTI
DAVIS WRIGHT TREMAINE LLP
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1501 FOURTH AVENUE
SEATLE WA 98101-1688

COPY MAILED

FEB 25 2003

OFFICE OF PETITIONS

In re Application of
Williamson, et al.
Application No. 09/299,068
Filed: April 23, 1999
Attorney Docket No. 25932-5

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed December 5, 2002, to revive the above-identified application on the basis of unavoidable delay.

The petition under 37 CFR 1.137(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. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(a)."

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 25, 2002, which set a shortened statutory period for reply of three months. On October 15, 2002, applicant obtained a three month extension of time and filed a Continued Prosecution Application (CPA). However, the CPA was not proper because the application contained an earlier CPA that was filed after May 29, 2000.[1] Accordingly, the CPA was treated as a Request for Continued Examination (RCE) under 37 CFR 1.114. However, the RCE was not proper because it was not accompanied by a submission. A Notice of Improper RCE was mailed on October 24, 2002. No proper reply to the final Office action having been received, the above-identified application became abandoned on October 26, 2002. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Consideration of petition under 1.137(a) (Unavoidable Delay):

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

[1] The earlier filed CPA was filed on November 13, 2001.

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 does not satisfy requirement (3).

As to requirement (3), 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."[2]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the MPEP, however, does not constitute "unavoidable" delay.[3]

Petitioner states that he "believed" the CPA filed on October 15, 2002 was a proper response. Moreover, petitioner states that he had "intended" to submit a Preliminary Amendment with the CPA. Petitioner failed to establish why he did not include a Preliminary Amendment with the CPA.

Petitioner was responsible for knowing the proper response to a final Office action.

A proper response to a final Office action consists of either (1) a Notice of Appeal); (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 Continued Examination (RCE) under 37 CFR 1.114; or (5) if applicable, a 37 CFR 1.129(a) submission.

Conclusion:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, applicant is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition under 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 set forth in 37 CFR 1.17(m)[4]; (3) a statement

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[2] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[3] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[4] Effective January 1, 2003, the fee for a petition to revive under 37 CFR 1.137(b) (small entity) was increased to $650.

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 as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The petition fee of $55 has been charged to Deposit Account No. 04-0258, as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions
Cliff Congo

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH VA 22042-2924

MAILED

OCT 28 2009

OFFICE OF PETITIONS

In re Patent No. 6,118,118
Issue Date: September 12, 2000
Application No. 09/299,105
Filed: April 19, 1999
Attorney Docket No. 8553/154

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 7, 2009.

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) 272-3215.

Charlema 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
www.uspto.gov

Paper No. 10

KENNETH P. GLYNN ESQ.
24 MINE STREET
FLEMINGTON NJ 08822-1516

COPY MAILED

AUG 0 5 2002

OFFICE OF PETITIONS

In re Application of	:	
Lothar E.S. Budike Jr.	:	
Application No. 09/299,124	:	ON PETITION
Filed: April 26, 1999	:	
Attorney Docket No. PWB-119C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 6, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action remailed on October 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 above-identified application became abandoned on January 3, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (3).

Applicant, Lothar E.S. Budike, states:

> I did not direct my attorney to file a Response in this application in a timely fashion because the application has been assigned to Powerweb, Inc. I was President of the company and handling payments on all patent matters. Prior to the due date of the Response, I was removed from some financial and management responsibilities and directed the new people in charge to send payment to my attorney and have him file a timely Response with a Terminal Disclaimer and proper fee. When they looked at their records they confused two different patent applications and failed to contact the attorney, because the other application had already been taken care of.

37 CFR 1.137(b) provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the petition must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification "unintentional" for the reply to now be accepted on petition. The current showing of record raises a question as to whether the delay in filing the reply within the time period set in the Office action on October 2, 2001 was in fact unintentional as to the party having interest in the instant application.

The showing of record is that applicant, Mr. Budike, was removed from some of his financial and management responsibilities in view of the assignment of the application to Powerweb, Inc. Therefore, it is unclear whether Mr. Budike was the party in interest having apparent authority to direct the prosecution of the instant application. When the issue of revival is addressed, the focus must be on the rights of the parties as of the time of abandonment. See Kim v. Quigg, 781 F.Supp. 1280, 1284, 12 USPQ2d 1604, 1607 (E.D. Va 1989). It is noted that applicant Budike assigned his interests in this application to Powerweb, Inc. on April 12, 1999. Therefore, applicant, as the assignor of his interest, could not demand that the assignee prosecute this case. As noted in MPEP 711.03(c), the question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not to reply) was unintentional). From the statements presented, it is unclear as to who was the proper party in

interest in the instant matter and as to who was responsible for making decisions as to the prosecution of the instant application. In view of the above, further clarification is required as to the party having apparent authority to direct the prosecution of the instant application. Further, an explanation as to the unintentional delay in replying to the outstanding Office action of October 2, 2001 should be provided from the parties responsible for the delay.

In order to expedite revival of this application, petitioner may wish to consider submitting the items required by this decision on petition in a renewed petition under 37 CFR 1.137(b) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8680.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 12

MCKENNA LONG & ALDRIDGE
1900 K STREET NW
WASHINGTON DC 20006

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APR 3 0 2004

OFFICE OF PETITIONS

In re Application of
BUDIKE
Application No. 09/299,124
Filed: April 26, 1999
Attorney Docket No. 28086.002.00-US

: DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) filed December 8, 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 (and fee) 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 January 3, 2002. A Notice of Abandonment was mailed March 8, 2002.

A first petition to revive was filed June 6, 2002, and was dismissed by the decision of August 5, 2002. The decision set a period for renewal, or requesting reconsideration, of two months unless excused by extensions of time under the provisions of 37 CFR 1.136(a). Accordingly, as no extensions of time were obtained under 37 CFR 1.136(a), the renewed petition was due on or before October 5, 2002. See 37 CFR 1.137(e).

The renewed petition was filed December 8, 2003, some 14 months after the deadline of October 5, 2002.

Petitioner, the named inventor and president of Powerweb, the assignee of the entire interest, seeks reconsideration in that (1) he was aware that a reply was to be filed by January 2, 2002, to avoid extension of time fees, but did not direct his former counsel to timely reply to the outstanding Office action, (2) subsequent to October 2, 2001, he did instruct the accountant to send a payment to counsel to cover the costs of preparing and filing the reply, (3) there was some confusion with another Powerweb application such that the payment was never sent, (4) petitioner first learned in May 2002, that this application was abandoned, and authorized the June 2002, filing of the first petition to revive, (5) he learned of the adverse decision of August 5, 2002, on or about November

12, 2002, and believed that there was no further possibility of reviving this application.

As noted in MPEP 711.03(c)III, and 37 CFR 1.137(b), when there is a question as to whether the delay was unintentional, the Director may require further information. The statements made in support of the last petition raised such a question; unfortunately the statements made in support of the present petition do not resolve the question.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) The delay in reply that originally resulted in abandonment;

(2) The delay in filing an initial petition pursuant to § 1.137(b) to revive the application; and

(3) the delay in filing a *grantable* petition pursuant to § 1.137(b) to revive the application. *See Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* 53131 at 53158 (October 10, 1997).

As to item (1) *supra* the record remains unclear as to why petitioner contends the abandonment was unintentional; rather, it appears intentional. Petitioner does not clarify the record by asserting that he "did not direct my attorney to file a timely Response to the Office action." That lack of direction is what is then asserted to be unintentional (see Budike decl. filed December 8, 2003, ¶ 4); but such does not comport with the statement required by 37 CFR 1.137(b). Did applicant, or any one else at Powerweb at any time instruct former counsel not to prepare, not file, or withhold, a response to the Office action mailed October 2, 2001? If so, who; when? Did applicant, or any one else at Powerweb at any time instruct former counsel to prepare, or file, or both, a response to the Office action mailed October 2, 2001, prior to April 2, 2002? If so, who; when? As the statement "confusing the present application with the co-pending application, the payment was never sent" is less than grammatically correct, such likewise does not clarify the issue. Who was confused? What was their position at Powerweb, and that position's relationship to why the reply was withheld? While petitioner contends that he had the ultimate authority, it appears that person or persons actually held the decision making authority as to whether a reply would be made in this case, and exercised that authority by deciding that no reply would be filed. Why was this person or persons able to render petitioner's instructions to the accountant nugatory? Indeed, this person's or persons' actions would appear to be those of the person having the ultimate authority and control to determine whether a reply would be filed vel non, and as such that person is the party whose intent and resultant delay is controlling in this case. See MPEP 711.03(c)III(E), under the caption " Party Whose Delay is Relevant." As such this party's decision and resultant delay would appear

intentional and binding on both petitioner and Powerweb. If not, why not? Still further, petitioner contends that the person or persons who withheld a reply in this case confused this case with another. This speculation is not substantiated, and in any even, such indicates the delay herein was intentional; the delay in filing the reply herein is not rendered unintentional simply because it was misdirected.

As to item (3) supra, the delay in renewing the petition is not shown to be unintentional. That is, petitioner was aware in November 2002, that: (1) the instant application was abandoned, (2) the petition to revive had been aversely decided by the USPTO in August 2002, as such, (3) this application remained abandoned and had not been revived, (4) former counsel had advised petitioner to file a continuation-in-part (CIP) application based on another copending application apparently in lieu of continuing attempts at reviving this application, (5) former counsel was "fired" by petitioner, and (6) no CIP was filed by petitioner. The lack of any concurrent action to renew the petition or seek reconsideration of the decision, or continue to prosecute the "invention" by way of filing the CIP, and the severance of association with former counsel is inconsistent with a finding that the ensuing delay in herein renewing the petition is unintentional. Rather, such is consistent with petitioner's acquiescence to abandonment, not only of this application, but of the invention, as well. Accordingly, there is no adequate basis given or apparent for relaxing the requirement of 37 CFR 1.137(e). See MPEP 711.03(c)III(H).

An adequate showing of unintentional delay must include a showing from Mr. Kenneth Glynn as to why action was not taken to prevent the application from becoming abandoned while the application was under Glynn's control. Petitioner should send a letter (accompanied by a copy of this decision) to Glynn by registered or certified mail, return receipt requested, indicating to Glynn that the USPTO is requesting his assistance in determining the circumstances surrounding the abandonment, revival, and lack of renewed revival of this application, and is specifically requesting Glynn to provide a statement accompanied by a documented showing(s) as to: (1) whether the Office action October 2, 2001, was docketed for reply, (2) with whom at Powerweb, and when, Glynn corresponded or otherwise communicated about (a) preparing, and/or (b) not preparing a reply to the aforementioned action, (3) why counsel, after receipt of the interlocutory decision of August 5, 2002, recommended filing a continuing application of another chain of applications as opposed to renewing this petition. If Mr. Glynn cannot be reached or does not reply, a copy of any receipt showing service on Mr Glynn should be included with any renewed petition.

Petitioner should note that according to USPTO address records maintained for registered practitioners, Mr. Glynn's address is listed as Glynn & Associates PC, 24 Mine Street, Flemington, NJ 08822, and his telephone number is listed as 908-788-0077.

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: 2011 South Clark Place
Crystal Plaza Two, Lobby
Room 1B03
Arlington, VA 22202

By FAX: (703) 872-6906
ATTN: Office of Petitions

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 14

MCKENNA LONG & ALDRIDGE
1900 K STREET NW
WASHINGTON DC 20006

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JUL 1 9 2004

OFFICE OF PETITIONS

In re Application of	:	
BUDIKE	:	
Application No. 09/299,124	:	DECISION ON PETITION
Filed: April 26, 1999	:	
Attorney Docket No. 28086.002.00-US	:	

This is a decision on the renewed petition under 37 CFR 1.137(b) filed June 30, 2004, to revive the above-identified application.

The petition is **granted**.

This application is hereby restored to pending status.

This application is being forwarded to Technology Center AU 2857 for consideration of the reply to the outstanding Office action filed June 6, 2002.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MCKENNA LONG & ALDRIDGE LLP
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WASHINGTON, DC 20006

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APR 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Lothar E.S. Budke, Jr. :
Application No. 09/299,124 : ON PETITION
Filed: April 26, 1999 :
Attorney Docket No. PWB-119C :

This is a decision on the petition, filed November 29, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed June 23, 2006. A Notice of Abandonment was mailed on October 30, 2006. In response, on November 29, 2006, the present petition was filed.

The petition satisfies the requirements 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 and (3) an adequate statement of unintentional delay.

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Publications to oversee the review of the drawing filed November 29, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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3300 DAIN RAUSCHER PLAZA
MINNEAPOLIS MN 55

MAILED

FEB 23 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of
SCHUSTER, MICHAEL D. , et al
Serial No.: 09/299,294
Filed: April 26, 1999
For: **DIGITAL PAINTING**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, June 23, 2004, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The application file is being forwarded to the Group technical support staff for entry of the proposed amendment filed with this petition.

The petition is GRANTED.

Krista Zele
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
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Paper No. 09152005

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PHILADELPHIA PA 19103

NOV 0 8 2005

In re Application of:
WHITTED *et al.*
Serial No.: 09/299,522
Filed: April 26, 1999
Attorney Docket No.: **MSFT-3942/116646.01**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a response to the petition filed on May 24, 2004 under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to the final Office action mailed on June 3, 2003.

The petitioner asserts that a timely response was mailed to the United States Patent & Trademark Office (USPTO) on December 3, 2003. To support this assertion, petitioner has provided a copy of the response to the final Office action bearing a certificate under 37 CFR § 1.8(a) showing a date of mailing of December 3, 2003, a copy of the Terminal Disclaimer, a Petition for a Three-Month Extension of Time and authorization to charge fees to Deposit Account No. 500241.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed in accordance with 37 CFR § 1.8(a), and is reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence: (1) informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware

> that the Office has no evidence of receipt of the correspondence; (2) supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition, meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response.

Consideration of proposed after final amendments are addressed in 37 CFR § 1.113, 37 CFR §1.116, and MPEP § 714.13 reproduced, in part, below:

37 CFR § 1.113 (c) states, in part, the following:

"(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."

37 CFR § 1.116 (b) and (c) state, in part, the following:

"(b) ... amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, an amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment..."

"(c) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented."

Section 714.13 of the MPEP states, in part, the following:

"An amendment filed at any time after final rejection but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions."

* * *

"It should be noted that under 37 CFR § 1.181(f), the filing of a 37 CFR § 1.181 petition will not stay the period for reply to an examiner's action which may be running against an application. See MPEP § 1207 for appeal and post-appeal procedure."

Under current practice, the proposed after final amendment would be entered if it *prima facie* placed the application in condition for allowance. The examiner, after consideration, has determined that the response to the final Office action would *prima facie* place the application in condition for allowance.

In view of the above stated reasons, the petition to withdraw the holding of abandonment for the above-identified application is granted.

The application file is being forwarded to the technical support staff for processing the response to the final Office action, the Terminal Disclaimer, and the Petition for Three-Months Extension of Time. From there, it will be returned to the examiner for further prosecution.

Inquiries regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

Janice A. Falcone

Janice A. Falcone, 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

Paper No. 27

Gottlieb Rackman & Reisman
270 Madison Avenue
New York, NY 10016

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FEB 0 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Gregory B. Thagard et al.	:	
Application No. 09/300,042	:	ON PETITION
Filed: April 27, 1999	:	
Attorney Docket No. 3054-008 CON	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 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 in reply to the non-final Office action mailed June 26, 2003, which set a shortened statutory period for reply of three months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on September 27, 2003.

The application file is being forwarded to Technology Center AU 2675 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

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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270 MADISON AVENUE, 8TH FLOOR
NEW YORK, NY 10016-06901

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Gregory B. THAGARD, et al	:	
Application No. 09/300,042	:	ON PETITION
Filed: April 27, 1999	:	
Attorney Docket No. 3054/8	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 17, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 09300042 Total Records Found: 27

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
05/20/2008	00011452	4	1453	$1,540.00	05/20/2008	ET
05/20/2008	00011453	4	1801	$810.00	05/20/2008	ET
11/16/2007	00012422	4	1202	$250.00	11/16/2007	ET
06/11/2007	00000105	1	1252	$450.00	06/11/2007	CK
01/25/2005	00000063	1	1252	$450.00	01/24/2005	CK
01/25/2005	00000064	1	1402	$500.00	01/24/2005	CK
09/27/2004	00000078	1	1401	$330.00	09/24/2004	CC
09/27/2004	00000079	1	1253	$950.00	09/24/2004	CC
02/13/2004	00000001	1	1254	$1,480.00	01/12/2004	DA 071730
01/13/2004	00000032	1	1453	$1,330.00	01/12/2004	CC
06/10/2003	00000212	1	1801	$750.00	06/09/2003	CK
06/10/2003	00000213	1	1251	$110.00	06/09/2003	CK
03/20/2003	00000165	1	1252	$410.00	03/17/2003	CK
03/13/2003	00000076	1	1401	$320.00	03/11/2003	CK
07/12/2002	00000095	1	115	$110.00	07/08/2002	CK
01/03/2002	00000038	1	115	$110.00	12/31/2001	CK
05/02/2001	00000008	1	131	$710.00	04/27/2001	CK
05/02/2001	00000010	1	102	$240.00	04/27/2001	CK
05/02/2001	00000009	1	103	$270.00	04/27/2001	CK
03/08/2001	00000115	1	119	$310.00	03/06/2001	CK
03/08/2001	00000116	1	115	$110.00	03/06/2001	CK
08/18/2000	00000146	1	103	$18.00	08/17/2000	CK
07/06/2000	00000059	1	566	$15.00	07/05/2000	CK
05/05/1999	00000143	1	101	$760.00	04/27/1999	CK
05/05/1999	00000144	1	103	$23.00	04/27/1999	DA 071730
05/05/1999	00000145	1	103	$139.00	04/27/1999	CK
05/05/1999	00000146	1	581	$40.00	04/27/1999	DA 071730

PTO/SB/64 (01-08)
Approved for use through 05/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) 3054/8

First named inventor: Gregory B. Thagard

Application No.: 09/300,042 Art Unit: 2629

Filed: April 27, 1999 Examiner: BODDIE, WilliM

Title: CLOTHINF WITH IMAGE DISPLAY

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☑ Other than small entity – fee $ 1,540 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Request for Continued Examination (RCE) under 37 CFR 1.114 (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(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 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 FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	05. 20. 2008 Date
Tiberiu Weisz, Esq. Typed or printed name	29,876 Registration Number, if applicable
270 Medison Avenue, New York, New York 10016-0601 Address	(212) 684-3900 Telephone Number
Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: Amendments filed with RCE; RCE FEE

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

PTO/SB/30EFS (03/08)
Approved for use through 05/31/2008. 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 contains a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	09/300,042	Filing Date	1999-04-27	Docket Number (if applicable)	3054/8	Art Unit	2629
First Named Inventor	THAGARD, Gregory B.			Examiner Name	BODDIE, William		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ☐ Other _____

☒ Enclosed

- ☒ Amendment/Reply
- ☐ Information Disclosure Statement (IDS)
- ☐ Affidavit(s)/ Declaration(s)
- ☒ Other Petition for Revival under 37 CFR 1.137(b)

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

☒ **The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to
Deposit Account No 071730

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/21/04

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction on Patent No.: 6245753

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte Newsome

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:

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE — **Art Unit** 1624

PTO/SB/44 (05-03)
Approved for use through 01/31/2004. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 6,245,753 B1

DATED : June 12, 2001

INVENTOR(S) : YOUNGRO BYUN et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Abstract, lines 5-6, delete "conjugate" and replace with –conjugation–; line 13, insert –the– before "gastric;" line 14, delete "form" and substitute –forms–; line 15, delete "the" before "surface."

Column 6, line 11, delete "ad 1620 $cm^{31\ 1}$" and replace with --and 1620 cm^{-1}--.

Column 9, lines 31-33, delete "composition of matter of claim 3 wherein said hydrophobic agent;" line 47, delete "glycochenodeoxvcholic" and substitute –glycochenodeoxycholic–.

Column 10, lines 1-11, delete "poly((ethylene oxide)-poly(ϵ-caprolactone)" and substitute --poly(ethylene oxide)-poly(ϵ-caprolactone)--.

MAILING ADDRESS OF SENDER:
Alan J. Howarth
Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, Utah 84091

PATENT NO. 6,245,753 B1

No. of additional copies

10

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 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.

Cofc

OIPE JC87
MAY 1 9 2003
PATENT & TRADEMARK OFFICE

MAY 2 7 2003

Attorney Docket No. T9005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENTEE:	YOUNGRO BYUN et al.	
TITLE:	AMPHIPHILIC POLY-SACCHARIDE DERIVATIVES	REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. §§ 1.322 AND 1.323
PATENT NO.:	6,245,753 B1	
ISSUED:	June 12, 2001	
SERIAL NO.:	09/300,173	
FILED:	April 27, 1999	

Certificate
MAY 2 7 2003
of Correction

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This paper is a request for issuance of a Certificate of Correction under 37 C.F.R. §§ 1.322 and 1.323.

No fee is required for such a request under Rule 322, i.e., where the mistake is by the U.S. Patent and Trademark Office. A fee is required under Rule 323, i.e., where the mistake is applicant's. Since it is believed that a Certificate of Correction would be issued to correct the Patent Office's mistakes and that no additional expenses would be incurred by the PTO to simultaneously

CERTIFICATE OF DEPOSIT UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on the 14th day of May, 2003.

Alan J. Howarth

Alan J. Howarth
Attorney Registration No. 36,553

correct Applicants' mistakes, no fee has been enclosed. However, if the PTO insists in charging a fee under 37 C.F.R. § 1.323 to correct both the PTO's and Applicants' mistakes, the Commissioner is hereby authorized to charge $100.00 to Deposit Account No. 50-0836 for the fee under 37 C.F.R. § 1.20(a). The Commissioner is also authorized to charge any addition fee or credit any overpayment in connection with this request to Deposit Account No. 50-0836.

The PTO made an error at column 6, line 11, wherein Applicants presented the term "cm^{-1}" (see page 11, line 4, of the specification) and the PTO printed "cm $^{31\ 1}$." This error causes confusion and should be corrected.

The PTO also made mistakes in claims 5 and 7. In claim 5, the PTO erroneously included the phrase "composition of matter of claim 3 wherein said hydrophobic agent is" when it was printed in the patent. Claim 5 (originally, claim 6) was amended during prosecution in a paper filed November 15, 2000. Applicants correctly set out the amendment of the claim. Therefore, the error was by the PTO. In claim 7 (originally, claim 10), the PTO misspelled the term "glycochenodeoxycholic." Claim 7 was also amended in the paper filed November 15, 2000, wherein the term was spelled correctly. Therefore, the mistake in claim 7 was also caused by the PTO.

Claim 5 is so garbled by the presence of the PTO's error that the claim cannot be properly understood without correction. Therefore, a Certificate of Correction should be issued.

Applicants made errors in the Abstract and in misspelling "and" at column 6, line 11. Correction of these errors is also requested. These errors are of a clerical nature, or of a typographical nature, or of minor character. Further, correction of such errors would not constitute new matter or require reexamination. It is respectfully requested that the fee required for correction of mistakes by Applicants be waived in view of the mistakes by the PTO that will be corrected at the same time.

DATED this 14th day of May, 2003.

Respectfully submitted,

Alan J Howarth

Alan J. Howarth, Ph.D.
Attorney Registration No. 36,553
Customer No. 020450

Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, UT 84091
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 36

Millen White Zelano & Branigan
2200 Clarendon Blvd., Suite 1400
Arlington, VA 22201

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FEB 2 0 2004

OFFICE OF PETITIONS

In re Application of :
Dario Neri et al. :
Application No. 09/300,425 :
Filed: April 28, 1999 :
Attorney Docket No. ELLIS-2-P1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 4, 2003, 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 May 5, 2003. See MPEP 1215.04.

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 1645 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

Mail Date: 04/22/2010

Applicant	: NORDINE CHEIKH	: DECISION ON REQUEST FOR
Patent Number	: 7655770	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/300,482	: OF WYETH
Filed	: 04/28/1999	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL Paper No. 20

APR 0 8 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HENRY T. BRENDZEL
P.O. BOX 574
SPRINGFIELD NJ 07081

In re Application of:
Calderbank et al. :
Application No. 09/300,494 :
Filed: April 28, 1999 :
For: COMBINED CHANNEL CODING ANMD SPACE-BLOCK CODING IN A MULTI-ANTENNA ARRANGEMENT :

DECISION
ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment filed December 22, 2003, pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was abandoned for failure to respond in a timely and effective manner to the final Office action mailed April 23, 2003. A Notice of Abandonment was mailed December 12, 2003.

Petitioner alleges to have timely file an amendment via facsimile on July 31, 2003. In support thereof, a copy of the fax receipt generated by the PTO, which serves as evidence of timely receipt by the PTO, is included with the petition in compliance with the requirements of 37 CFR 1.8(a)(1). Therefore, it is concluded that the papers were timely filed in the Patent and Trademark Office but not matched with the application file.

MPEP § 714.13 [R-1] Amendments After Final Rejection or Action, Procedure Followed, states in part:

> FINAL REJECTION — TIME FOR REPLY
> If an applicant initially replies within 2 months from the date of mailing of any final rejection setting a 3-month shortened statutory period for reply and the Office does not mail an advisory action until after the end of the 3-month shortened statutory period, the period for reply for purposes of determining the amount of any extension fee will be the date on which the Office mails the advisory action advising applicant of the status of the application, <u>but in no event can the period extend beyond 6 months from the date of the final rejection</u>...
>
> <u>If no appeal has been filed within the period for reply and no amendment has been submitted to make the application allowable or which can be entered in part (see MPEP § 714.20), the application stands abandoned.</u> [emphasis added]

37 C.F.R. § 1.121(c) states in part:

(c)*Claims* .Amendments to a claim must be made by rewriting the entire claim with all changes (*e.g.*, additions and deletions)as indicated in this sub-section, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (With-drawn), (Previously presented), (New), and (Not entered). [emphasis added]

Petitioner has successfully demonstrated that a reply was timely filed to the outstanding final Office action. However, as set forth in MPEP §714.13 above, although the submission was filed timely with a one month extension of time request from the mailing date of the final Office action, the time period for reply can not extend beyond 6 months. It has been determined in the attached Notice of Non-Compliant Amendment, that the submission did not place the application in condition for allowance. Given that the submission did not properly comply with the requirements of 37 C.F.R § 1.121, the application is abandoned.

Therefore, the petition to withdraw holding of abandonment is **DENIED**.

The application will be forwarded to the file repository. Applicants may wish to consider a petition under 37 C.F.R. §1.137(b) if they wish to revive the application.

Jin F. Ng
Technology Center 2600
Communications

Attachments: Notice of Non-Compliant Amendment

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HENRY T. BRENDZEL
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SPRINGFIELD, NJ 07081

COPY MAILED
JUL 25 2005
OFFICE OF PETITIONS

In re Application of :
Calderbank et al. :
Application No. 09/300,494 :
Filed: April 28, 1999 : ON PETITION
Attorney Docket Number: :
CALDERBANK-1 :

This is in response to the Request for Reconsideration and Petition Under Rule 37 C.F.R. 1.183 or, in the Alternative, Petition Under 37 CFR Rule 137(4)(b), filed April 28, 2004. The petitions are treated as a request for reconsideration under 37 CFR 1.181, a petition under 37 CFR 1.183 and 37 CFR 1.137(b).

The petitions are **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [the applicable code setion]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly respond to the final Office action, mailed April 23, 2003. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on via facsimile on July 31, 2003, along with a one (1) month extension of time request; however, the Amendment was apparently not received in the Technology Center at that time.

A Notice of Abandonment was mailed December 12, 2003.

Applicant filed a Petition to Withdraw the Holding of Abandonment on based upon Applicant's timely filed Amendment on

December 22, 2003, and provided a copy of the timely filed Amendment. A review of the Amendment revealed that the Amendment was Non-compliant, and failed to place the application in condition for allowance. In a Decision mailed April 8, 2004, the petition was dismissed, and Applicant was notified in a Notice of Non-compliant Amendment that the Amendment failed to place the application in condition for allowance.

Having failed to timely and properly reply to the final Office action, the application became abandoned July 24, 2003.

The instant petition

Applicant files the instant Request for Reconsideration and provides that the set of claims filed in the July 31, 2003 Amendment was "the same set of claims that was presented to the Examiner in a previous Office Action response, and the Examiner did not point out the problem at that time." Petition at p.2. Furthmore, Applicant asserts, "the mistaken listing did not miss any claims. It merely failed to identify the status of the claims that are already NOT in the case." Id. Applicant asserts that "[s]ubstantively, the last amendment placed that case in condition for allowance." Id. Accordingly, Applicant requests withdrawal of the holding of abandonment. Applicant avers that "[b]ut for the failures of the PTO… the case surely would have been issued." Id. Applicant asserts that this is an extraordinary situation and, "in the interest of justice, the Rule or Rules that pertain to this matter be suspended for this time."

A further review of the Amendment filed with the petition to withdraw abandonment on December 22, 2003

A further review of the Amendment filed with the petition to withdraw abandonment on December 22, 2003 reveals that the Amendment raises new issues and will not be entered by the Examiner. A copy of the Advisory Action follows under separate cover.

Request for Reconsideration under 37 CFR 1.181

Applicable Law/Rules/MPEP and Analysis

Regarding Applicant's assertion that "[s]ubstantively, the last amendment placed that case in condition for allowance," the

Office finds this assertion is without merit. Accord the Advisory Action which follows under separate cover.

Regarding Applicant's argument that "[b]ut for the failures of the PTO… the case surely would have been issued."

The Manual for Patent Examining Procedure ("MPEP"), section 711.02, provides:

> 37 CFR 1.135(a) specifies that an application becomes abandoned if applicant 'fails to reply' to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply, i.e. failure to file a 'complete and proper reply, as the condition of the case may require' within the statutory period (37 CFR 1.135(b)).

This section clearly explains that abandonment occurs when Applicant fails to timely and properly reply to the outstanding Office action.

Further to this, Applicant is directed to 37 CFR 1.135(b), Abandonment For Failure to Reply Within Time Period, which reads:

> 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.

This section is further clarified in the MPEP, which provides

> [f]or example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not 'unavoidable' when 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.

This section explains that a delay is not unavoidable when the applicant-petitioner is awaiting an action from the examiner. In other words, when Petitioner filed the response to the final Office action, it was Petitioner's responsibility to file a complete and proper reply as the application required. The Notice of Non-compliant Amendment (as well as the Advisory Action accompanying this Decision) was (are) a courtesy mailed to Applicant which attempted to notify Applicant that the filed response failed to comply with what was required. The time to file a complete and proper reply continued to run from the mailing of the Office action on April 23, 2003.

Applicant is further advised that a proper response to a final rejection must be in the form of an appeal; a request for continued examination or a continuation application. The filing of an amendment placing the application in condition for allowance is permitted under these rules, but entry of such amendment is not a matter of right. While the Office attempts to promptly respond to an amendment after final, there are those instances, as here, where delays do occur. However, it is clear from 37 CFR 1.116 that abandonment of the application is risked when an amendment after final Office action is filed.

Accordingly, the Request for Reconsideration of Petition Under 37 CFR 1.181 is dismissed

After a decision on a petition for reconsideration under 37 CFR 1.181, no further reconsideration or review of the matter will be undertaken by the Commissioner under 37 CFR 1.181. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence.

Petition under 37 CFR 1.183

It is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or procedures 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 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 and diligence, and thus is not an extraordinary situation under 37 CFR 1.183); 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). Rather, as Applicant failed to comply with the provisions of 37 CFR 1.135, this is not an "extraordinary situation" where "justice requires" an extraordinary remedy.

Accordingly, the petition under 37 CFR 1.183 is dismissed.

The petition under 37 CFR 1.137(b)

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 notice of appeal and the requisite fee; a request for continued examination; 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 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)).

This petition lacks items (**1**) and (**3**) above. As to item (**1**), Applicant has failed to provide the required reply. As previously noted, the reply filed with the petition

on December 22, 2003 (Certificate of mailing dated July 31, 2003), fails to place the application in condition for allowance. The required reply must be filed.

As to item (**3**), Applicant has failed to provide 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.

Accordingly, the petition under 37 CFR 1.137(b) is dismissed.

Applicant's deposit account has been charged the fee for filing a petition under 37 CFR 1.137(b) in effect at the filing of the petition, $1330.00 as authorized in the petition.

The application file is being forwarded to Technology Center Art Unit 2634 for mailing of the Advisory Action.

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: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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SPRINGFIELD, NJ 07081

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APR 10 2006

OFFICE OF PETITIONS

In re Application of :
Calderbank et al. :
Application No. 09/300,494 :
Filed: April 28, 1999 : ON PETITION
Attorney Docket Number: :
CALDERBANK-1 :

This is in response to the Request for Reconsideration and Petition Under 37 CFR 1.137(b), filed February 14, 2006.

The petition is **granted**.

Background

The above-identified application became abandoned for failure to timely and properly respond to the final Office action, mailed April 23, 2003. The Office action set a three (3) month period for reply.

Applicant filed an Amendment on via facsimile on July 31, 2003, along with a one (1) month extension of time request; however, the Amendment was apparently not received in the Technology Center at that time.

A Notice of Abandonment was mailed December 12, 2003.

Applicant filed a Petition to Withdraw the Holding of Abandonment on based upon Applicant's timely filed Amendment on December 22, 2003, and provided a copy of the timely filed Amendment. A review of the Amendment revealed that the Amendment was Non-compliant, and failed to place the application in condition for allowance. In a Decision mailed April 8, 2004, the petition was dismissed, and Applicant was notified in a Notice of Non-compliant Amendment that the Amendment failed to place the application in condition for allowance.

Having failed to timely and properly reply to the final Office action, the application became abandoned July 24, 2003.

Applicant filed a petition to revive the application under 37 CFR 1.137(b), which was dismissed in a Decision mailed July 25, 2005, for failing to meet the requirements of a grantable petition under 378 CFR 1.137(b).

With the instant petition, Applicant has filed a Request for Continued Examination ("RCE") and a submission in the form of an Amendment.

This application is being returned to Technology Center 1631 for processing of the RCE and Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions