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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) |
| 5,628,365 | 1997-05-13 | 08/495,888 | 1995-06-28 | P/3589-6 V19382 |
| CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d). | | | | |
| SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27. | | | | |
| LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g) | | | | |
| NOT Small Entity | | Small Entity | | |
| <input type="radio"/> | Fee 3 ½ year | Code (1551) | <input type="radio"/> | Fee 3 ½ year |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year |
| <input type="radio"/> | 11 ½ year | (1553) | <input checked="" type="radio"/> | 11 ½ year |
| <input type="radio"/> | | | <input type="radio"/> | Code (2551) |
| <input type="radio"/> | | | <input type="radio"/> | Code (2552) |
| <input type="radio"/> | | | <input checked="" type="radio"/> | Code (2553) |
| SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee. | | | | |
| MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition. | | | | |
| STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL | | | | |
| PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED | | | | |
| THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES 37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest." I certify, in accordance with 37 CFR 1.4(d)(4) that I am | | | | |
| <input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> The assignee of record of the entire interest | | | | |

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|-----------------|----------------------------|------------|
| Signature | /jamesafinder/ | Date (YYYY-MM-DD) | 2011-05-12 |
| Name | James A. Finder | Registration Number | 30173 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5628365 :
Issue Date: May 13,1997 :
Application No. 08495888 :DECISION GRANTING PETITION
Filed: June 28,1995 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 3245 :

This is a decision on the electronic petition, filed May 12,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 12,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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**HOFFMAN WASSON AND GITLER
2361 JEFFERSON DAVIS HIGHWAY
SUITE 522
ARLINGTON VA 22202**

MAILED

AUG 26 2010

OFFICE OF PETITIONS

In re Patent No. 5,710,183 :
Issue Date: January 20, 1998 :
Application No. 08/502,773 : **ON PETITION**
Filed: July 14, 1995 :
Attorney Docket No. A-4922 :

This is a decision on the petition under 37 CFR 1.378(c), filed July 21, 2010, 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 Commissioner.

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 none of the above items.

However, the petition must be signed by:

- (1) An attorney or agent of record appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
- (5) All of the applicants (§§ 1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

Further, 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.

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

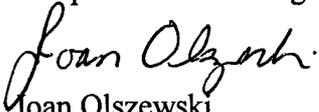
By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

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

The patent file is being forwarded to Files Repository.



Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Robert Raleigh
 60 Columbian Street West
 Braintree, MA 02185-0929

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5775208 | 1998-07-07 | 08504240 | 1995-07-19 | 6486.0002 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Travis S. Uhlenhopp/ | Date (YYYY-MM-DD) | 2010-09-02 |
| Name | Travis S. Uhlenhopp | Registration Number | 58882 |

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

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

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



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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5775208 :
Issue Date: July 7, 1998 :
Application No. 08504240 :DECISION GRANTING PETITION
Filed: July 19, 1995 :UNDER 37 CFR 1.378(c)
Attorney Docket No. KIMP.P0101US :

This is a decision on the electronic petition, filed September 2, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 2, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------------|------------------------|
| 08/504,919 | 07/20/1995 | DONALD M. GOGAN | 43210/9883 | 8575 |
| 23409 7590 02/17/2011 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202 | | | EXAMINER MAUST, TIMOTHY LEWIS | |
| | | | ART UNIT 3105 | PAPER NUMBER |
| | | | MAIL DATE 02/17/2011 | DELIVERY MODE 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
WASHINGTON, DC 20231
www.uspto.gov

Kevin P. Moran
Michael Best & Friedrich, LLP
100 East Wisconsin Avenue, Suite 3300
Milwaukee, Wisconsin 53202-4108

Art Unit 3751

In re Application of
Donald M. Gogan et al.
Serial No. 08/504,919
Filed July 20, 1995
For: Detachable Luggage Carrier

DECISION ON PETITION

In the petition under 37 CFR 1.324 filed June 17, 2010, applicant request that David Fernandez and Donald R. Markland be added as inventors of the above named invention.

Regarding the petition under 37 CFR 1.324, the following is required per 37 CFR 1.324:

- (b)(1) A statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on his or her part;
- (b)(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;
- (b)(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and
- (b)(4) The fee set forth in § 1.20(b)

All requirements set forth in 37 CFR 1.324, as noted above, have been met by applicants' petition.



UNITED STATES PATENT AND TRADEMARK OFFICE

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

The petition is granted.

The correct inventive entity for this application is:

Donald M. Gogan, Brookfield, WI; Stephen L. Galbraith, Mequon, WI; Geoffrey T. Williams, Mequon, WI; David Fernandez, Mission Viejo, CA; Donald R. Markland, Laguna Beach, CA

PETITION GRANTED

/Gregory L. Huson/
Gregory L. Huson
Supervisory Patent Examiner
Art Unit 3751
(571) 272-4887
(571) 273-4887 fax

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO.: 5,664,715

Page 1 of 1

DATED: September 09, 1997

INVENTOR(S): Gogan et al.

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

The inventorship has been corrected to read:

Donald M. Gogan, Brookfield, WI; Stephen L. Galbraith, Mequon, WI; Geoffrey T. Williams, Mequon, WI; David Fernandez, Mission Viejo, CA; Donald R. Markland, Laguna Beach, CA

/GREGORY L HUSON/
Supervisory Patent Examiner, Art Unit 3751

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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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5767828 | 1998-06-16 | 08505654 | 1995-07-20 | UCOL-0001 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

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| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

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

Privacy Act Statement

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5767828 :
Issue Date: June 16,1998 :
Application No. 08505654 :DECISION GRANTING PETITION
Filed: July 20,1995 :UNDER 37 CFR 1.378(c)
Attorney Docket No. UCOL-0001 :

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

The petition is **GRANTED**.

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

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



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN S. PRATT, ESQ.
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED
NOV 24 2010
OFFICE OF PETITIONS

In re Patent No. 5,695,038 :
Issue Date: December 9, 1997 :
Application No. 08/506,021 : DECISION ON REQUEST FOR REFUND
Filed: July 24, 1995 :
Attorney Docket No. 02970-0130 :

This is a decision on the communication filed September 14, 2010, which is supplemental to the request for refund filed July 7, 2010.

The request is **DISMISSED**.

Petitioner asserts that on April 30, 2009, the maintenance fee was erroneously paid to patent no. 5,696,038 in the amount of \$4,110.00. Petitioner now files the above request for refund of the fees paid on April 30, 2009 in the above patent.

The petition states that "It was discovered that the undersigned attorney of record (via his staff) paid the maintenance fee in the wrong patent number, wherein it was intended that the maintenance fee of U.S. Patent No. 5,695,038 be paid. This discovery was a result of receiving a maintenance fee reminder, dated June 15, 2009, for U.S. Patent No. 5,695,038. Thereafter, on June 29, 2009, a Request for a Refund was filed."

Petitioner is advised that 37 CFR 1.366(g) provides that maintenance fees and surcharges relating thereto will not be refunded except in accordance with 37 CFR 1.26 and 128(a). A patentee cannot obtain a refund of a maintenance fee that was **due and payable on the patent**. Any duplicate payment will be refunded to the fee submitter.

As the maintenance fee paid in U.S. Patent No. **5,696,038** was due and payable at the time that petitioner submitted the fee, the fee is not subject to refund. This is not a situation wherein there has been a duplicate payment made on patent no. 5,696,038.

Thus, in accordance with 37 CFR 1.366(g), it is not deemed appropriate to refund the maintenance fee paid in U.S. Patent No. 5,696,038.

A copy of this decision is being mailed to petitioner's address indicated below.

Application No. 08/506,021
Patent No. 5,695,038

-2-

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

**MARK MONTAGUE
COWAN LIEBOWITZ AND LATMAN PC
1133 AVENUE OF THE AMERICAS
NEW YORK, NY 10036**

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5604767 | 1997-02-18 | 08506207 | 1995-07-24 | 215/132 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-06 |
| 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

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

In re Patent No. 5604767 :
Issue Date: February 18, 1997 :
Application No. 08506207 :DECISION GRANTING PETITION
Filed: July 24, 1995 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 215/132 :

This is a decision on the electronic petition, filed October 12, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
D1W Mar-12

Paper No. 18

CHARLES A MCCLURE
P.O. BOX 1369
LEXINGTON VA 24450

MAILED
MAR 06 2012
OFFICE OF PETITIONS

In re Patent No. 5,918,323 :
Issued: 07/06/1999 : LETTER
Application No. 08/506,851 :
Filed: 07/25/1995 :
For: HOSPITAL LIQUID :
SANTITATION CART :

This is a letter in reference to the paper filed on September 28, 2011, styled as a petition under 37 CFR 1.378(c).

The petition cannot be treated on the merits for the reasons stated below.

37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

- (1) The required maintenance fee set forth in § 1.20(e) through (g);
- (2) The surcharge set forth in § 1.20(i)(2); and
- (3) A statement that the delay in payment of the maintenance fee was unintentional.

The petition lacks items (1), (2), and (3).

With regard to items (1) and (2), the maintenance fee and surcharge have not been paid. The 7.5 year maintenance fee (currently \$1,425.00 for a small entity) and the surcharge of \$1,640.00 must be filed with the petition.

The petition lacks the fee required by 37 CFR 1.378(c)(2).

Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at

the time of requesting any action by the Office for which a fee or charge is payable.¹ As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted. Any request for reconsideration of this petition must be accompanied by the petition fee.

With regard to item (3), a statement that the delay in payment of the maintenance fee was unintentional has not been provided.

The patent expired on July 6, 2007, for failure to pay the 7.5 year maintenance fee.

It is further noted 35 U.S.C. § 41(c)(1) authorizes the Director to accept a delayed maintenance fee payment within twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) if the delay is shown to have been unintentional, and authorizes the Director to accept a delayed maintenance fee payment at any time if the delay is shown to have been unavoidable. Thus, 35 U.S.C. § 41(c)(1) does not authorize the Director to accept a delayed maintenance fee payment later than twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) unless the delay is shown to have been unavoidable. Since the instant petition was not filed within twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b), the Director cannot accept a delayed maintenance fee payment for the above-identified patent under 37 CFR 1.378(c).

Should petitioner wish to pursue reinstatement of the above-identified patent on the basis of unavoidable delay, petitioner should file a petition under 35 U.S.C. § 41(c) and 37 CFR 1.378(b), which must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1) (currently \$700.00).

A copy of the form for filing a petition under 37 CFR 1.378(b) is enclosed for petitioner's reference.

With regard to petitioner's request for information regarding ownership of the patent, a review of Office assignment records

¹ 37 CFR 1.22(a).

does not reveal that any assignments have been recorded for this patent.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address (copy enclosed) should be filed if the correspondence address needs to be updated.

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

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

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

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

The file is being returned to Files Repository.

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


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/65
 PTO/SB/123
 Fee Schedule

Cc: ANTHONY SMITH
 3001 W. HWY 146
 LA GRANGE KY 40032

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5636210 | 1997-06-03 | 08510594 | 1995-08-02 | 23830 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-07 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5636210 :
Issue Date: June 3, 1997 :
Application No. 08510594 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 2, 1995 :
Attorney Docket No. 23830 :

This is a decision on the electronic petition, filed October 12, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5604793 | 1997-02-18 | 08511060 | 1995-08-03 | 24/1 |

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

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-06 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

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

Privacy Act Statement

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5604793 :
Issue Date: February 18,1997 :
Application No. 08511060 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 3,1995 :
Attorney Docket No. 24/1 :

This is a decision on the electronic petition, filed October 12,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



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William C. Milks, III
Suite 115B
1000 Elwell Court
Palo Alto CA 94303

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Patent No. 5,778,381 :
Issue Date: 07/07/1998 :
Application No. 08/511,289 : DECISION ON PETITION
Filed: 08/04/1995 :
Attorney Docket No. 032892ATP :

This is a decision on the petition under 37 CFR 1.378(c), filed October 15, 2010, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **granted**.

The patent issued July 7, 1998. The grace period for paying the maintenance fee expired on July 8, 2009. This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5773309 | 1998-06-30 | 08511937 | 1995-08-07 | IL9436B |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|-----------------------|----------------------------|------------|
| Signature | /John H. Lee, #53193/ | Date (YYYY-MM-DD) | 2010-12-16 |
| Name | John H. Lee | Registration Number | 53193 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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. 5773309 :
Issue Date: June 30,1998 :
Application No. 08511937 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 7,1995 :
Attorney Docket No. IL-9436B :

This is a decision on the electronic petition, filed December 16,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

**RICHARD D. STONE
ASHLAND PETROLEUM COMPANY
P.O. BOX 391
ASHLAND KY 41114**

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Patent No. 5,645,615 :
Issue Date: July 08, 1997 :
Application No. 08/513,035 : **DECISION ON PETITION**
Filed: August 09, 1995 :
Attorney Docket No. 0646-94 :

This is a decision on the renewed petition under 37 CFR 1.378(c), originally filed July 09, 2009 and resubmitted August 17, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 23, 2009 for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

The Office will issue a refund for the maintenance and surcharge fees paid August 16, 2011.

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

The patent file is being forwarded to Files Repository.



Michelle R. Eason
Paralegals Specialist
Office of Petitions

Cc: **JAMES PORCELLO**
EMCH, SCHAFFER, SCHAUB AND PORCELLO CO., L.P.A.
P. O. BOX 916
TOLEDO, OH 43697-0916



UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK NY 10019

MAILED

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OFFICE OF PETITIONS

| | | |
|-----------------------------|---|-------------|
| In re Patent No. 5,653,760 | : | |
| Issue Date: August 5, 1997 | : | |
| Application No.: 08/513,092 | : | ON PETITION |
| Filed: August 9, 1995 | : | |
| Attorney Docket No.: | : | |

This is a decision on the "PETITION FOR REISSUANCE OF ORIGINAL GRANT PATENT UNDER 37 C.F.R. 1.182", filed November 18, 2010, requesting re-issuance of the Ribbon Copy of the above-identified patent. The requisite \$400.00 petition fee (Fee Code 1462) has been paid.

The petition is **GRANTED**.

Petitioner requests, pursuant to 37 CFR 1.182, that a Ribbon Copy of US Patent No. 5,653,760 be re-issued on the basis that the original Ribbon Copy has been lost. A document advising the Office that a court action has been filed in the U.S. District Court on the above-identified patent was also filed with the present petitions. In view of the circumstances surrounding Petitioner's request, it is appropriate to grant the petition and re-issuance of the Ribbon Copy.

The patented filed is being forwarded to the Office of Data Management for re-issuance of the Ribbon Copy of US Patent No. 5,653,760. Telephone inquiries relating thereto should be directed to the Office of Data Management at (571) 272-4200.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.



Brian W. Brown
Petitions Examiner
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5686674 | 1997-11-11 | 08514592 | 1995-08-14 | 09845-29702 (11913-109) |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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| Patent Practitioner | | | |
|--|---------------------|---------------------|------------|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature | | | |
| Signature | /Marlo M. Schepper/ | Date (YYYY-MM-DD) | 2010-11-09 |
| Name | Marlo M. Schepper | Registration Number | 57194 |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

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



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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5686674 :
Issue Date: November 11,1997 :
Application No. 08514592 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 14,1995 :
Attorney Docket No. 09845-29702 :

This is a decision on the electronic petition, filed November 9,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 9,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



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Paper No.

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DEC 01 2011
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HAROLD W. MILTON, JR.
HOWARD & HOWARD ATTORNEYS, P.C.
1400 NORTH WODDWARD AVENUE, SUITE 101
BLOOMFIELD HILLS, MI 48304

In re Application of :
Rixon et al. :
Application No. 08/516,050 :
Patent No. 5,819,593 : DECISION ON PETITION
Filed: August 17, 1995 : UNDER 37 C.F.R. § 1.378(C)
Issue Date: October 13, 1998 :
Title: ELECTRONIC ADJUSTABLE :
PEDAL ASSEMBLY :

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on September 22, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

The patent issued on October 13, 1998. The grace period for paying the 7½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on October 13, 2010, with no payment received. Accordingly, the patent expired on October 13, 2010 at midnight.

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

- (1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
- (2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;
- (3) A statement that the delay was unintentional from a proper party in interest, and;

- (4) The petition must be filed within 24 months of the date of expiration.

With this petition, Petitioner submitted a statement that the delay in payment of the maintenance fee was unintentional, the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, and the 7½-year maintenance fee. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 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 regarding this decision should be directed to the undersigned at (571) 272-3225.¹ Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at <http://www.uspto.gov/web/forms/sb0123.pdf>.

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

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540.

A blank fee address form may be found at
<http://www.uspto.gov/web/forms/sb0047.pdf>.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay². In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee pursuant to 37 C.F.R. § 1.378(c) was intentional, Petitioner must notify the Office.



Paul Shanowski
Senior Attorney
Office of Petitions

cc: Thomas E. Anderson
Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C.
P.O. Box 7021
Troy, MI 48007-7021

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



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**GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045**

MAILED
APR 14 2011
OFFICE OF PETITIONS

In re Patent No. 5,650,198 :
Issue Date: July 22, 1997 :
Application No. 08/516,794 : **ON PETITION**
Filed: August 18, 1995 :
Attorney Docket No. G & C 30794.254-US- :
01 :

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

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). After a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of this matter.

The pertinent facts determinative of this decision is set forth below:

On September 16, 2003, the University of California Santa Barbara/Office of Technology & Industry Alliances decided not to pay the maintenance fee for the above identified patent. Sherylle Mills Englander sent an email to Linda Stevenson at University of California's Office of the President/Office of Technology Transfer instructing her to close the case. Exhibit A-1 indicates that Linda Stevenson requested verification and on September 16, 2003, approval was given to close the patent 5,650,198. On September 17, 2003, Linda Stevenson sent a letter to the inventors, Steven P. Denbaars and James S. Goleta informing them that continued payment of the maintenance fees on patent 5,650,198 could no longer be justified and therefore the maintenance fee will not be paid. On September 23, 2003, instructions were sent to Computer packages, Inc., via email, not to pay the maintenance fee.

On July 22, 2004, the maintenance fee window opened for patent 5,650,198 and on July 22, 2005, the maintenance fee window closed. The Office did not receive payment of maintenance fee within this time period. The Office records indicate that a Notice of Patent Expiration was mailed on August 24, 2005.

On February 2008, petitioner filed a request for late acceptance of maintenance fee and on November 17, 2008, the petition was dismissed. Petitioner renewed the petition on January 21, 2009 and on March 29, 2010; the petition was dismissed with a Request for Information required. Petitioner responded on March 27, 2010.

Petitioner asserts that petitioner never intended to allow this patent to expire and was not made aware that the maintenance fee was not paid until October 29, 2007. Petitioner now request reconsideration of the petition filed under 37 CFR 1.378(e).

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

A late maintenance fee is considered under the same standard as that for revising an abandoned application under 35 USC 133 because 35 USC 41 (c) (1) used the identical language, i.e., "unavoidable" delay. *Ray v. Lehman*, 55 F. 3d 606, 608-09, 34USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting *In re Patent No. 4,409,763*, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay 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 unavoidably delay. *Haines v Quigg*, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record, therefore, is that the delay resulting in the expiration of this patent is due to an intentional decision made by the University of California Santa Barbara/Office of Technology & Industry Alliances to not continue this patent in force, instead permitting the expiration of the patent. A delay caused by this deliberate decision not to take those actions indicated as necessary within a given time period cannot be viewed as constituting an "unavoidable delay" or an "unintentional delay". The discovery of additional information after making a deliberate decision to withhold a timely act is not the mistake in fact that might form the basis for acceptance of a maintenance fee pursuant to 35 U.S.C. 41(c) (1) and 37 CFR 1.378 (c). The discovery of other information is simply a change of circumstances that occurred after the deliberate and intentional act. An intentional course of action is not rendered unintentional when upon reconsideration the petitioner changes his mind as to the course of action that should have been taken. See *In re Maldague*, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

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

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

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

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-0602.


Thurman K. Page
Petitions Examiner
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5674380 | 1997-10-07 | 08517619 | 1995-08-22 | |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

| 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 | /Matei Cioara/ | Date (YYYY-MM-DD) | 2011-01-21 |
| Name | Matei Cioara | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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

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

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



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In re Patent No. 5674380 :
Issue Date: October 7, 1997 :
Application No. 08517619 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 22, 1995 :
Attorney Docket No. :

This is a decision on the electronic petition, filed January 21, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 21, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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United States Patent and Trademark Office
P.O. Box 1450

MAILED

SEP 19 2011

**DAVID P ALAN
81 SECOND STREET
SOUTH ORANGE NJ 07079**

OFFICE OF PETITIONS

In re Patent No. 5,627,614 :
Issue Date: May 6, 1997 : ON PETITION
Application No.: 08/519,244 :
Filed: August 25, 1995 :

This is a decision on the petition under 37 CFR 1.378(c), having a certificate of mailing date of May 5, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **GRANTED**.

This petition expired on May 7, 2009 for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provide in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

Telephone inquiries relating to this decision should be directed to Robert DeWitty,
Petitions Attorney, Office of Petitions (571-272-8427).


for Anthony Knight
Director
Office of Petitions

cc: David P. Alan
50 South Ridgewood Rd.
South Orange, NJ 07079



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United States Patent and Trademark Office
P.O. Box 1450
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**BARDEHLE, PAGENBERG, DOST, ALTENBURG,
FROHWITTER, GEISSLER & PARTNERS
THREE RIVERWAY SUITE 500
HOUSTON, TX 77056**

MAILED
JUN 17 2011
OFFICE OF PETITIONS

In re Patent No. **5,871,034** :
Issue Date: February 16, 1999 :
Application No. 08/520,711 : **DECISION ON PETITION**
Filed: August 29, 1995 : **UNDER 37 CFR 1.378(c)**
Patentee. **Glen R. SUMNER** :

This is a decision on the petition under 37 CFR 1.378(c), filed March 7, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

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

The petition lacks items (1) above.

The statement of unintentional delay is not considered to be submitted by a proper party as required by 37 CFR 1.378(d), which states that any petition under this section must be signed by 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 petitioner's signature was omitted from the request and therefore, the statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

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

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not properly signed, the petition is considered to not contain a proper statement of unintentional delay.

If reconsideration of this decision is desired, a properly signed petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. For applicant's convenience a Statement under 37 CFR 3.73(b) is attached. No extension of this 2-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 such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include any lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the \$2055 maintenance fee and the \$1640 surcharge submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to reinstatement of this patent should be addressed as follows:

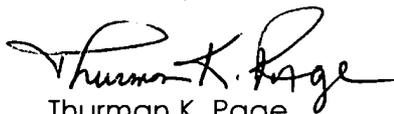
By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop PETITION
 Randolph Building

401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this decision may be directed to Monica A. Graves at (571) 272-7253.

A handwritten signature in black ink, appearing to read "Thurman K. Page". The signature is fluid and cursive, with a large initial 'T' and 'P'.

Thurman K. Page
Petitions Examiner
Office of Petitions

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FROHWITTER, GEISSLER & PARTNERS
THREE RIVERWAY SUITE 500
HOUSTON TX 77056**

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Patent No. 5,871,034 :
Issued: February 16, 1999 :
Application No. 08/520,711 : **ON PETITION**
Filed: August 29, 1995 :
Attorney Docket No. SU-1443C :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed October 17, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 17, 2011 for failure to pay the eleven 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 has submitted an unnecessary additional \$280.00 extension of time fee that will be refunded to petitioner via treasury check in due course.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Glen Sumner
8306 Leafy Lane
Houston, Texas 77055

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5822583 | 1998-10-13 | 08520717 | 1995-08-29 | ID 043410 - JLR |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /SMG/ | Date (YYYY-MM-DD) | 2010-11-22 |
| Name | Steven M. Gruskin | Registration Number | 36818 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5822583 :
Issue Date: October 13,1998 :
Application No. 08520717 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 29,1995 :
Attorney Docket No. 40405/186-MO :

This is a decision on the electronic petition, filed November 22,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 22,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAROLD R PILLEY
P.O. BOX 439
BERKLEY HEIGHTS NJ 07922-0439

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Patent No. 5,867,804 :
Issue Date: February 2, 1999 :
Application No. 08/524,081 :
Filed: September 6, 1995 :
Attorney Docket No. H28046 (H000-1-1854) :

NOTICE

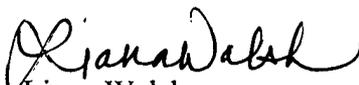
This is a notice regarding your request, January 20, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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 patent is no longer entitled to small entity status.


Liana Walsh
Petitions Examiner
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,741,582 | 1998-04-21 | 08525160 | 1995-09-08 | 002062.50866 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|----------------------------|----------------------------|------------|
| Signature | /Christopher R. Glembocki/ | Date (YYYY-MM-DD) | 2011-03-18 |
| Name | Christopher R. Glembocki | Registration Number | 38800 |

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

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5741582 :
Issue Date: April 21, 1998 :
Application No. 08525160 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 8, 1995 :
Attorney Docket No. 002062.50866 :

This is a decision on the electronic petition, filed March 18, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 18, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,684,692 | 1997-11-04 | 08/525,920 | 1995-09-08 | 105006.62200US |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|---------------------|---------------------|------------|
| Signature | /Michael H. Jacobs/ | Date (YYYY-MM-DD) | 2010-12-21 |
| Name | Michael H. Jacobs | Registration Number | 41870 |

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

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5684692 :
Issue Date: November 4, 1997 :
Application No. 08525920 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 8, 1995 :
Attorney Docket No. G48-1056 :

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

The petition is **GRANTED**.

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

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

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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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5866351 | 1999-02-02 | 08525940 | 1995-09-08 | 66888 - 397199 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Roberta Jean Hanson/ | Date (YYYY-MM-DD) | 2011-02-11 |
| Name | Roberta Jean Hanson | Registration Number | 51774 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5866351 :
Issue Date: February 2, 1999 :
Application No. 08525940 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 8, 1995 :
Attorney Docket No. 2848-11-C1 :

This is a decision on the electronic petition, filed February 11, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 11, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DW Sep-10

Paper No. 10

PETER L BERGER
LEVISOHN LERNER BERGER LANGSAM
757 THIRD AVENUE
NEW YORK NY 10017

MAILED

SEP 20 2010

| | | |
|-------------------------------|---|----------------------------|
| In re Patent No. 5573519 | : | OFFICE OF PETITIONS |
| Issue Date: 11/12/1996 | : | |
| Application Number: 08/526379 | : | DECISION ON PETITION |
| Filing Date: 09/11/1995 | : | |
| Attorney Docket Number: | : | |
| 1234.001 | : | |

This is a decision on the petition under 37 CFR 1.378(b),¹ filed on May 21, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further

¹A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must be include

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in §1.20(I)(1); and
- (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

reconsideration or review of the matter will be undertaken by the Director.

The patent issued on November 12, 1996. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from November 12, 2003, through May 12, 2004, or with a surcharge during the period from May 13 through November 12, 2004. The patent expired at midnight on November 12, 2004, for failure to timely pay the second maintenance fee.

Petitioner states that registered patent practitioner Peter L. Berger ("Berger") was retained by the inventor, Walter A. Zohmann, to prosecute the application for patent and to pay the maintenance fees. Berger timely paid the first maintenance fee.

Petitioner states that no notice was received from Berger when the second maintenance fee was due, and that the second maintenance fee was not paid.

Petitioner had also included a declaration from Berger, which states, in pertinent part:

5. My electronic docketing system includes an entry dated May 7, 2004, which states: "Case to go abandoned per PLB." It was my practice at that time to enter such a notation into the docket—expressing my instructions to allow the patent to go abandoned—only when I had received verbal or written instructions from the client that the patent should be allowed to go abandoned.

6. I have no recollection of sending Walter Zohmann any communication regarding the second or third maintenance fees, nor do my records reflect that any such correspondence was sent to Mr. Zohmann.

7. While I had several discussions with Mr Zohmann concerning snow skiing and his move to Utah, I have no specific recollection or record of receiving any verbal instructions from Mr. Zohmann specifically stating that his '519 patent should be allowed to go abandoned, except as set forth in paragraph 5

8. The only other record I still possess on this matter is an electronic copy of the July 23, 2000 reminder letter I sent to Mr Zohmann in connection with the payment of the first maintenance fee

9. The hard-copy files relating to the '519 patent were destroyed in 2007 in connection with an office move

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".² A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner "exercised the due care of a reasonably prudent person."³ This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."⁴ Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133.⁵ Under 35 U.S.C. § 133, the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.⁶ However, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.⁷ In view of In re Patent No. 4,409,763,⁸ this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.378(b):

- (1) The delay in reply that originally resulted in expiration;
- (2) The delay in filing an initial petition pursuant to § 1.378(b) to revive the application; and

² 35 U.S.C. § 41(c)(1).

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

⁴ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

⁵ In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

⁶ 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).

⁷ Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

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

(3) The delay in filing a *grantable* petition pursuant to § 1.378(b) to revive the application.⁹

This petition lacks the showing required by periods (1) and (2).

With regard to period (1), this petition does not satisfy the requirement of 37 CFR 1.378(b)(3). The statements presented in the petition fail to satisfy the showing required to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

With regard to period (1), above, a delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

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

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

(3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.¹⁰

An adequate showing requires:

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

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

(C) Petitioner must supply information regarding the training provided to the personnel responsible for the docketing error,

⁹ See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (October 10, 1997).

¹⁰ See MPEP 711.03(c)(III)(C)(2).

degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

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

At the outset, it is not clear whether petitioner has provided statements from all of the persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. Specifically, petitioner must explain whether Berger docketed the maintenance fees himself, or had employees perform this task. If employees of Berger, rather than Berger himself, were responsible for docketing and tracking the maintenance fees, statements as referenced above must be provided by those employees. Further, petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due. Lastly, petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

Moreover, Berger's notation in the file that the patent was "to go abandoned," as described in paragraph 5 from his declaration, suggests that Berger himself notated the docket to indicate that the that the patent should be allowed to expire.

As such, petitioner must explain whether the notation described in paragraph 5 from Berger's declaration was completed by an employee of Berger, or by petitioner's registered patent attorney himself. Assuming, *arguendo*, the notation was made by an employee of Berger, in error, rather than Berger himself, petitioner must provide a statement from said employee, explaining the circumstances surrounding the error and why the error occurred: petitioners must provide statements from any of the persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. Petitioner must also provide the information set forth in the preceding pages regarding a showing of docketing error.

On the other hand, if the notation in question was made by counsel (in this case, Berger) himself, in error, such error would not be considered a clerical error, but rather a mistake on the part of counsel.

The U.S. 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.¹¹ Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.¹²

A 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.¹³ A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.¹⁴

With regard to counsel's assertion that Berger's files were destroyed in an Office move, it is noted that while this event is unfortunate, it does not relieve petitioner of the burden to provide a documented showing that the delay was unavoidable in accordance with 37 CFR 1.378(b)(3).

With regard to period (2), as enumerated above, petitioner states that petitioner learned that the subject patent had expired "in late December of 2009." The subject petition was not filed until May 21, 2010, at least four (4) months after petitioner learned that the patent had expired. In this regard, petitioner must provide a documented showing that the entire delay, from when petitioner learned that the patent had become expired, until the date the subject petition was filed, was unavoidable.

¹¹ Link v. Wabash, 370 U.S. 626, 633-34 (1962).

¹² Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. 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).

¹³ Id.

¹⁴ See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Thus, the petition will be dismissed.

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

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

If petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

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

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

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

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

Patent No. 5,573,519

8

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: JOHN M. GYNN
WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE, SUITE 1000
SALT LAKE CITY UT 84111

Encl: PTO/SB/81A
Privacy Act Statement

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5733358 | 1998-03-31 | 08526448 | 1995-09-11 | |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /edward h. jones/ | Date (YYYY-MM-DD) | 2010-11-04 |
| Name | Edward H. Jones | Registration Number | 33717 |

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5733358 :
Issue Date: March 31, 1998 :
Application No. 08526448 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 11, 1995 :
Attorney Docket No. 94070A :

This is a decision on the electronic petition, filed November 5, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | | | | | | | | | | | | | | | | | |
|---|----------------------------|--------------------|-----------------------------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|---|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|--|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5672556 | 1997-09-30 | 08527504 | 1995-09-13 | INP-10004-A | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input checked="" type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <p><input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office</p> <p><input type="radio"/> A sole patentee</p> <p><input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.</p> <p><input type="radio"/> A joint patentee; all of whom are signing this e-petition</p> <p><input type="radio"/> The assignee of record of the entire interest</p> | | | | | | | | | | | | | | | | | | | | |

Under 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 | /Stephen T. Scherrer/ | Date (YYYY-MM-DD) | 2011-02-24 |
| Name | Stephen T. Scherrer | Registration Number | 45080 |

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

Privacy Act Statement

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

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

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



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

In re Patent No. 5672556 :
Issue Date: September 30,1997 :
Application No. 08527504 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 13,1995 :
Attorney Docket No. MSU-4.1-220-

This is a decision on the electronic petition, filed February 24,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 24,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,653,739 | 1997-08-05 | 08/527,811 | 1995-09-13 | |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|---------------|---------------------|------------|
| Signature | /Laura Zager/ | Date (YYYY-MM-DD) | 2011-08-04 |
| Name | Laura Zager | Registration Number | 64813 |

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

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5653739 :
Issue Date: August 5, 1997 :
Application No. 08527811 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 13, 1995 :
Attorney Docket No. E33.12-0094 :

This is a decision on the electronic petition, filed August 4, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 4, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5748634 | 1998-05-05 | 08528112 | 1995-09-14 | 30019.39US01 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
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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.
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
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www.uspto.gov

In re Patent No. 5748634 :
Issue Date: May 5, 1998 :
Application No. 08528112 :DECISION GRANTING PETITION
Filed: September 14, 1995 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 30019.39US01 :

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

The petition is **GRANTED**.

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

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5742603 | 1998-04-21 | 08528205 | 1995-09-14 | 30019.37US01 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

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

Privacy Act Statement

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5742603 :
Issue Date: April 21,1998 :
Application No. 08528205 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 14,1995 :
Attorney Docket No. 30019.37US01 :

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

The petition is **GRANTED**.

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

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5666766 | 1997-09-16 | 08529132 | 1995-09-15 | None |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Robert D. Null/ | Date (YYYY-MM-DD) | 2011-01-27 |
| Name | Robert D. Null | Registration Number | 40746 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5666766 :
Issue Date: September 16,1997 :
Application No. 08529132 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 15,1995 :
Attorney Docket No. 3969-00011 :

This is a decision on the electronic petition, filed January 27,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 27,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



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P.O. Box 1450
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Paper No. 13

MAILED

MAR 27 2012

OFFICE OF PETITIONS

MARK K JOHNSON
P O BOX 51644
NEW BERLIN WI 53131-0644

In re Patent No. 5,744,335 :
Issue Date: 04/28/1998 :
Application Number: 08/530,598 :
Filing or 371(c) Date: 09/19/1995 :
For: PROCESS OF TRANSFECTING A :
CELL WITH A POLYNUCLEOTIDE :
MIXED WITH AN AMPHIPATHIC :
COMPOUND AND A DNA-BINDING :
PROTEIN :

LETTER

This is in response to the letter concerning acceptance of a fee deficiency submission under 37 CFR 1.28 filed on February 23, 2012.

The letter is unsigned.

37 CFR 1.33(b) requires that 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 patent practitioner of record appointed in compliance with § 1.32(b);
- (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) 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.

Any papers filed in the USPTO, including a fee deficiency submission under 37 CFR 1.28, must be signed in accordance with 37 CFR 1.33(b). Accordingly, patentee must submit a properly signed request under 37 CFR 1.28.

The Office acknowledges receipt of payment of \$5,095.00.

Patent No. 5,744,335
Application No. 08/530,598

2

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
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

Laura Kielland
13434 SE 339th St.
Auburn, WA 98092

MAILED

JUL 28 2011

| | | |
|------------------------------|---|------------------------------|
| In re Patent No. 5,683,286 | : | OFFICE OF PETITIONS |
| Issue Date: November 4, 1997 | : | |
| Application No. 08/530,947 | : | DECISION ON PETITION |
| Filed: September 20, 1995 | : | UNDER 37 CFR 1.378(b) |
| For: BREAST PAD FOR NURSING | : | |
| MOTHERS | : | |

This is a decision on the petition under 37 CFR 1.378(b), filed May 4, 2011.

The petition under 37 CFR 1.378(b) for reinstatement of expired patent is hereby **DISMISSED**.

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

The patent issued November 4, 1997. The second maintenance fee could have been paid from November 4, 2004 through May 4, 2005 without a surcharge, or with a surcharge during the period from May 5, 2005 through November 4, 2005. Accordingly, the patent expired on November 4, 2005 for failure to timely submit the second maintenance fee.

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

This petition lacks item requirement (1) set forth above.

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

Patentee appears to attribute the failure to timely pay the second maintenance fee to a lack of knowledge that the maintenance fee was due and to the death of her prior attorney. Patentee states:

“In the past, my attorney handled everything regarding my patent and would email me from time to time if she needed anything. I did not realize that there was a maintenance fee to the USPTO, any charges for maintenance fees in the past I had assumed were charges to my attorney. It was brought to my attention recently that my patent was in jeopardy, that I had somehow lost my rights to my intellectual property, and made a phone call to my attorney, Joan Pauly, who was not responding to my emails. I then learned that Joan had died and apparently my patent was one that was left ignored by the rest of the firm Barnard, Pauly and Bellamy in Renton, Washington. I am requesting to please reinstate my rights to my patent, enclosed are all the back maintenance fees along with the surcharge discussed on the telephone with an agent who explained what I needed to do. Additionally I need to be instructed as to how to keep up with fees in the future. This is my only patent and unfortunately I'm not savvy with the regulations but definitely want to be.”

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

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

In essence, patentee must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment from the time the payment was due until the filing of a grantable petition. Petitioner has failed to meet this burden.

Petitioner fails to clearly indicate when and how she became aware that the patent was expired, nor does petitioner establish that thereafter, the instant petition was timely filed.

Petitioner acknowledges that she was unaware of the need to pay the maintenance fee. To the extent that patentee engaged attorneys to track the maintenance fee due date of the instant patent,

there is nothing in the record that establishes that the attorneys had steps in place to ensure timely payment of the maintenance fee. Thus, it cannot be found that it was reasonable for patentee to rely upon her attorneys for the purpose of tracking the maintenance fee. Further, there is nothing in the record to establish that patentee, who bears the ultimate responsibility for ensuring timely payment of the maintenance fee, made inquiry of her attorneys or the Patent and Trademark Office to determine when and if the maintenance fee was due.

Patentee asserts that her prior attorney, Joan Paully, died, but does not indicate when. Patentee asserts that her prior attorney, Joan Paully, was with a law firm. A review of the record reveals that patentee remains represented by attorneys Glenn Bellamy, Teresa Wiant, and Kathleen Petrich, no revocation of power attorney appearing in the record. Patentee has not indicated what action, if any, the other attorneys took or may have been responsible for taking insofar as maintaining the patent.

The petition is not accompanied by any documentary evidence of the delay complained of. Patentee asserts that she communicated with her attorney via email, but has not set forth or provided documentary evidence in support of the business routine in place whereby the attorney was obligated to maintain the patent on her behalf.

In view of the limited statement provided by patentee, it cannot be determined that the failure to timely submit the required maintenance fee, from the time that the maintenance fee was due until the filing of a grantable petition, was unavoidable.

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

Petitioner has not provided any documentary evidence demonstrating the nature and extent of contractual obligations of the attorney to establish that the attorney was bound to track the maintenance fee on behalf of patentee.

Ultimately patentee bears the responsibility for timely remittance of the maintenance fee. The petition fails to establish that patentee was unavoidably delayed in making the payment. Accordingly, the Office is precluded from accepting the maintenance fee and surcharge. If reconsideration of this decision is not desired, petitioner may request a refund of the fees

submitted with the instant petition by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Any renewed petition must establish that the entire period of delay from the time that the maintenance fee was due until the time of the filing of a grantable petition has been unavoidable. Petitioner is reminded that any renewed petition should entail an exhaustive effort to establish that the failure to timely pay the maintenance fee was unavoidable as after reconsideration pursuant to 37 CFR 1.378(e), no further reconsideration regarding unavoidable delay will be undertaken.

Petitioner must establish that patentee was aware of the need to pay the maintenance fee, and was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due until the filing of a grantable petition. Petitioner must establish a nexus between the events complained of and the failure to timely remit the maintenance fee.

Petitioner may wish to, but is not required to, submit statements of facts from her attorneys; copies of any contractual agreements between the attorneys and patentee whereby the attorneys was engaged to track the maintenance fee; copies of any reminder letters received from the attorneys to patentee concerning maintenance fees for the patent; and, a detailed statement concerning the system in place for tracking the maintenance fee and the business routine in place for ensuring timely payment of the maintenance fee.

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

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

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

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

The requested revocation of power of attorney/change of address has been entered into the record.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SCHWABE WILLIAMSON & WYATT
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

MAILED

APR 22 2011

OFFICE OF PETITIONS

In re Patent No. 5,960,032 :
Issue Date: September 28, 1999 :
Application No. 08/531,012 : NOTICE
Filed: September 20, 1995 :
Attorney Docket No. 118555-158788 :

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

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

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

The 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.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Linda S. Zachariah
Schwabe Williamson & Wyatt, P.C.
1420 5th Avenue, Suite 3400
Seattle, WA 98101



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CARRIE POWELL
2415 ROBINWOOD LN
DENTON TX 76209

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Patent No. 5,775,538 :
Issue Date: July 7, 1998 :
Application No. 08/532,856 : DECISION ON PETITION
Filed: September 22, 1995 :
Patentees: Ronnie Covington, Jim :
Covington :

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed December 12, 2011.

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

The above-identified patent issued July 2, 1998. Accordingly, the third (12 year) maintenance fee could have been paid during the period from July 7, 2009 through January 7, 2010 without surcharge, or with a late payment surcharge of \$65 during the period from January 8, 2010 through July 7, 2010. No maintenance fee having been received, the patent expired on July 8, 2010.

Applicable Rule and Analysis:

37 CFR 1.378(c) provides that:

Any petition to accept an unintentionally delayed payment of a maintenance fee must include:

- (1) The required maintenance fee set forth in 37 CFR 1.20(e) through (g);
- (2) The surcharge set forth in 37 CFR 1.20(i)(1); and
- (3) A statement that the delay in payment of the maintenance fee was unintentional.

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

Here, the instant petition is signed by Carrie Powell. Carrie Powell is not one of the listed inventors. Nor does Carrie Powell appear to be one of the assignees (no Rule 3.78(b) statement was provided) or an attorney or agent registered to practice before the office. Accordingly, on request for reconsideration, petitioner will need to present a petition signed by all of the inventors, or an attorney/agent registered to practice before the Office, or an assignee. Otherwise, petitioner will need to show how she is a "party in interest".

Conclusion:

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the \$400 petition fee set forth in §1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply any and all relevant information and documentation in order to meet his burden of showing unavoidable delay.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the \$3,695 submitted for the maintenance fee and the surcharge set forth in §1.20(i) are subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Petitioner may request a refund of the maintenance fee and surcharge by writing to: Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of the last decision rendered should accompany the request for refund. The \$400 fee for requesting reconsideration is not subject to refund

Patent No. 5,775,538

Page 3

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

A handwritten signature in black ink, appearing to read 'Cliff Congo', written in a cursive style.

Cliff Congo
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAILED
MAR 26 2012
OFFICE OF PETITIONS

CARRIE POWELL
2415 ROBINWOOD LN
DENTON TX 76209

In re Patent No. 5,775,538 :
Issue Date: July 7, 1998 :
Application No. 08/532,856 : DECISION ON PETITION
Filed: September 22, 1995 :
Patentees: Ronnie Covington, Jim :
Covington :

This is a decision on the renewed petition to reinstate an expired patent under 37 CFR 1.378(c), filed February 7, 2012, and supplemented with a letter filed on February 24, 2012, and a fee submission filed on March 20, 2012.

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

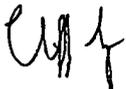
The above-identified patent issued July 2, 1998. Accordingly, the third (12 year) maintenance fee could have been paid during the period from July 7, 2009 through January 7, 2010 without surcharge, or with a late payment surcharge of \$65 during the period from January 8, 2010 through July 7, 2010. No maintenance fee having been received, the patent expired on July 8, 2010. Applicant filed a petition to accept the unintentionally delayed payment of the maintenance fee under 37 CFR 1.378() on December 12, 2011. However, the petition was dismissed in a decision mailed on January 23, 2012.

With the instant renewed petition, petitioner has overcome the deficiency set forth in the January 23, 2012 decision.

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

Receipt of the \$1640 unintentional surcharge fee and the \$2365 maintenance fee is acknowledged (as well as the \$400 fee for requesting reconsideration).

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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DW Feb-11

Paper No. 21

MAO INC.
1636 POPPS FERRY ROAD
SUITE 224
BILOXI MS 39532

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Patent No. 5,788,574 :
Issue Date: 08/04/1998 :
Application Number: 08/532,965 : DECISION ON PETITION
Filing Date: 09/22/1995 :
Attorney Docket Number: :
ORNSTEIN-3.0 :

This is a decision is in response to the petition under 37 CFR 1.378(b),¹ filed on November 5, 2010, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further

¹ A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in § 1.20(I)(1); and
- (3) a showing that the delay was unavoidable since reasonable care was

taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

reconsideration or review of the matter will be undertaken by the Director.

The patent issued on August 4, 1998. The first and second maintenance fees were timely paid. The third maintenance fee could have been paid during the period from August 4, 2009, through February 4, 2010, or, with a surcharge, during the period from February 5 through August 4, 2010. The patent expired at midnight on August 4, 2010, for failure to timely pay the third maintenance fee.

Petitioner, Stacey J. Perry, president of assignee MAO Inc. (hereinafter "MAO"), asserts unavoidable delay in that MAO relied upon registered patent practitioner Lou Weinstein, et al., of the law firm of Volpe and Koenig (hereinafter "Volpe"), which was tracking the maintenance fees in the original patent upon which the subject reissue patent is based. Petitioner further avers that (i) the delay was unavoidable because no notice was received by MAO or Volpe from the USPTO informing petitioner that the third maintenance fee was due, and (ii) because practitioner Terry Morris, by whom the subject reissue application was prosecuted, did not inform petitioner that a PTO/SB/47 Fee Address form, changing MAO's address in USPTO records, should be filed.

In her affidavit, Ms. Perry states, in pertinent part:

3. In 1995, MAO, Inc., retained Attorney Lou Weinstein, who later became a member of the law firm Volpe and Koenig to register, protect, and maintain a fee docket for its intellectual property. In November of 2001, Volpe and Koenig sent their notice to MAO that the first maintenance fee was due before February 4, 2002. The correspondence is attached hereto as Exhibit A-1.

4. In October of 2004 MAO Inc engaged Attorney Terry B. Morris, Registration Number 32,345, to further the prosecution of MAO's patents pending but not to maintain a maintenance fee docket. At Attorney Morris' directive, a Change of Attorney Form for all company Patents pending was filed with the USPTO. About that time MAO Inc. moved its offices, so a change of correspondence address for all Patents and patents pending was also filed with the USPTO.

5. MAO Inc has not ever been directed by Volpe and Koenig to file USPTO Form SB47: USPTO Change of Fee Notification Address. Nor, has MAO Inc ever received a Severance Letter from Volpe and Koenig.

6. Volpe and Koenig does maintain a fees docketing system and has a paralegal specifically assigned to maintaining that system.

7. Volpe and Koenig did forward a notification of Fees Due for this Patent in 2005, resulting in payment of the 7.5 year maintenance fees for US Patent 5,788,574...

8. Volpe and Koenig was listed on February 4, 2010 as Attorney of Record for US Patent 5,788,574. Volpe and Koenig failed to notify MAO Inc of the 11.5 yr. Maintenance Fee due and therefore caused the unintentional and unavoidable failure to pay 11.5 year maintenance fees.

9. In consideration of MAO's 2011 budget, on October 15, 2010, I requested that Attorney Morris create a listing of all future annuity due dates and anticipated Patent Office Actions. That very day MAO learned that US Patents 5,788,574 and US Patent RE37,588 had both expired.

10. On October 19, I did contact the office of Volpe and Koenig. I spoke with both, Gayle Ruchstul (the Paralegal responsible for the client Fee Docketing System) and Sally Pietzman, the Office Manager. The paralegal immediately recognized me as a client and referred me to the Office Manager, to whom I inquired as to the cause of the fee payment failure. She took the patent number and file number and denoted that either she or one of the Attorneys would get back to me. To date, there has been no response from Volpe and Koenig. The failure to respond to my inquiry is problematic, causing a week delay in preparing the Petitions to Revive.

The declaration of practitioner Terry B. Morris states, in pertinent part:

2. I have been retained by MAO, Inc., to represent it on various patent matters since 2004, dealing primarily

with patent prosecution and potential litigation, but not for maintenance fee docket purposes.

3. During my handling of patent matters for MAO, Inc., I considered US Patent 5,788,574 as inactive for the purposes of my representation since the Issuance and Publication fees were paid and maintenance fees tracking were assumed within the activity of the Assignee of Record was using the Attorney of Record to maintain the Fee Docket.

4. I was retained by Petitioner MAO, Inc., on October 15, 2010, to prepare a timeline for all future fees due for all of MAO's intellectual property (US and International).

5. On October 15, 2010, and during this review, I learned that US Patent 5,788,574 was designated on the internet records of the United States Patent and Trademark Office as expired for failure to pay maintenance fees.

6. Subsequently on October 15th, I inform Ms. Stacy Perry of MAO, Inc. of the discovered status of expiration for US Patent 5,788,574.

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

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".²

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e.

² 35 U.S.C. § 41(c)(1).

"unavoidable delay").³ Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.⁴ In this regard:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁵

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.⁶ That is, an adequate showing that the delay 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.⁷

Petitioner's arguments may be summarized as being that the delay should be considered unavoidable because (i) Volpe was

³ 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. 1989)).

⁴ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

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

⁶ Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

⁷ Id.

responsible for timely payment of the maintenance fee, but failed so to do, presumably because of a docketing error, (ii) that Morris failed to inform petitioner to file a PTO/SB/47 "Fee Address" Indication Form with the USPTO in the subject patent; and (iii) that no notice was received from the USPTO by Volpe or MAO that the maintenance fee was due.

With regard to argument (i), that petitioner relied upon Weinstein, and/or Volpe and Koenig, to track and pay the third maintenance fee, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 37 CFR 1.378(b) and 35 U.S.C. § 41(c).⁸ Rather, such reliance merely shifts the focus of the inquiry from petition to whether the attorney or agent acted reasonably and prudently.⁹ As such, assuming that the agent had been so engaged, then it is incumbent upon petitioner to demonstrate, via a documented showing, that the attorney or agent had docketed this patent for the first maintenance fee payment in a reliable tracking system.¹⁰ If petitioner cannot establish that agent had been so engaged, then petitioner will have to demonstrate what steps were established by petitioner to monitor and pay the maintenance fee.

Therefore, any showing of unavoidable delay must include a statement from petitioner's patent attorney, as well as any other attorney(s) of record during the period that payment of the maintenance fee was delayed, as to why action was not taken to timely submit the required maintenance fee while the patent was under that agent's control. Petitioner should send a letter (accompanied by a copy of this decision) to Weinstein by registered or certified mail, return receipt requested, indicating to the agent that the USPTO is requesting his firm's (Volpe's) assistance in determining the circumstances surrounding the expiration of this patent, and is specifically requesting Volpe to provide a statement as to: (1) whether, and when, the firm first became aware that the third maintenance fee for this patent was due, and (2) why the maintenance fee was not timely submitted. Such statements should be accompanied by copies of any documents relevant to payment of the maintenance fee. In the event that Weinstein fails to provide a statement within a person (e.g. within one (1) month) specified in such letter, petitioner should submit a copy of such letter and the return receipt

⁸ See California Med. Prod. v. Technol. Med. Prod., 921 F. Supp. 1219, 1259 (D. Del. 1995).

⁹ Id.

¹⁰ Id.

indicating its delivery to the patent attorney or agent with any petition for reconsideration under 37 CFR 1.378(e).

The above paragraph notwithstanding, petitioner is reminded that the failure of communication between an applicant and counsel is not unavoidable delay.¹¹ Specifically, delay resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).¹² Moreover, the Office is not the proper forum for resolving a dispute as to the effectiveness of communications between parties regarding the responsibility for paying a maintenance fee.¹³

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

- (1) the error was the cause of the delay at issue;
- (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance;
- (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.¹⁴

An adequate showing requires:

- (A) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.
- (B) Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledgers,

¹¹ In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

¹² See Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1995).

¹³ Id.

¹⁴ See MPEP 711.03(c) (III) (C) (2).

docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

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

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

At the outset, if the persons to whom Perry spoke at Volpe, Gayle Ruchstul (Ruchstul) and Sally Pietzman (Pietzman), were responsible for docketing and tracking the third maintenance fee, affidavits or declarations of facts must be provided by them, setting forth the facts as they know them. Further, petitioners must provide statements from all other persons at Volpe with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. As stated in the preceding paragraphs, petitioners should contact Weinstein and requested a statement, setting forth the facts as he knows them concerning the expiration of the patent and Volpe's responsibility for tracking and payment of the third maintenance fee.

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

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

In summary, the showing of record is inadequate to establish unavoidable delay. Petitioner has provided insufficient evidence

to substantiate a claim of docketing error. As petitioner has not shown that it exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.¹⁵

A delay resulting from a lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP does not constitute an "unavoidable" delay.¹⁶ As the showing of record does not rise to the level of unavoidable delay, the petition will be dismissed.

Likewise, with regard to argument (iii), above, that the delay should be considered unavoidable because no notification was received from the USPTO, by MAO or Volpe concerning the requirement to pay the third maintenance fee, a patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay.¹⁷ Under the statute and regulations, the Office has no duty to notify patentees (or their registered patent practitioners) of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office mailing of Maintenance Fee Reminders is carried out strictly as a courtesy. Accordingly, 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/or 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.¹⁸

Likewise, with regard to argument (ii) above, that the delay should be considered unavoidable because attorney Morris failed to advise to file Form PTO/SB/47, the "Fee Address" Indication form, it is noted that, as stated above, petitioner's argument is unpersuasive because the failure to receive a Maintenance Fee Reminder does not render the delay in payment of the maintenance fee unavoidable. In addition, only an address represented by a Customer Number can be established as the fee address for

¹⁵ See note 4, *supra*.

¹⁶ See *Haines v. Quigg*, 673 F. Supp. 314, 317, 5 USPQ 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).

¹⁷ See *Patent No. 4,409,763*, *supra*; see also "Final Rules for Patent Maintenance Fees" 49 Fed. Reg. 34716, 34722-34723 (August 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

¹⁸ *Rydeen v. Quigg*, 748 F. supp. at 900.

maintenance fee purposes. However, petitioners have not shown that they established a Customer Number with the USPTO. As such, the showing of record is that PTO/SB/47 cannot be used.

The U.S. 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.¹⁹ Specifically petitioners' delay caused by the mistakes or negligence of their voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c)(1) or 37 CFR 1.378(b).²⁰ Petitioners were not forced, but rather made a conscious decision to obtain the services of the chosen representative in payment of the maintenance fees for this patent, and therefore must be held accountable for his actions, or lack thereof, before the Office.

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

ALTERNATIVE VENUE

Petitioner may wish, in the alternative, to request reconsideration in the form of a petition under 37 CFR 1.378(c), requesting that the unintentionally delayed payment of a maintenance fee be accepted. A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be filed within twenty four months from the end of the six month grace period (e.g., the expiration date of the patent and be accompanied by (1) a verified statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, (3) payment of the \$1,640.00 surcharge (the \$700.00 surcharge already paid may be credited thereto leaving a balance due of \$940.00) set forth in 37 CFR 1.20(i)(2). The statement can be verified by using the attached petition form which includes a declaration according to 37 CFR 1.68.

¹⁹ Link v. Wabash, 370 U.S. 626, 633-34 (1962).

²⁰ 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).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the patent was expired until the filing of the petition to reinstate under 37 CFR 1.378(c), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.378(c).

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable.

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

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

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

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

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/66



UNITED STATES PATENT AND TRADEMARK OFFICE

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MAO, INC.
P.O. BOX 7209
DIBERVILLE MS 39540

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MAY 18 2011

OFFICE OF PETITIONS

In re Patent No. 5,788,574 :
Issue Date: 08/04/1998 :
Application Number: 08/532,965 : ON PETITION
Filing Date: 09/22/1995 :
For: METHOD AND APPARATUS FOR :
PLAYING A BETTING GAME :
INCLUDING INCORPORATING SIDE :
BETTING WHICH MAY BE SELECTED :
BY A GAME PLAYER :

This is a decision on the petition under 37 CFR 1.378(c), filed on April 4, 2011.

The petition is **GRANTED**.

This patent expired on August 4, 2010, for failure to timely pay the third maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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) |
| 5743335 | 1998-04-28 | 08534552 | 1995-09-27 | LIH4-08452-US (BAO0691US) |
| CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d). | | | | |
| SMALL ENTITY <input type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27. | | | | |
| LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g) | | | | |
| NOT Small Entity | | Small Entity | | |
| <input type="radio"/> | Fee | Code | <input type="radio"/> | Fee |
| <input type="radio"/> | 3 ½ year | (1551) | <input type="radio"/> | 3 ½ year |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year |
| <input checked="" type="radio"/> | 11 ½ year | (1553) | <input type="radio"/> | 11 ½ year |
| SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee. | | | | |
| MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition. | | | | |
| STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL | | | | |
| PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED | | | | |
| THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES 37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest." I certify, in accordance with 37 CFR 1.4(d)(4) that I am | | | | |
| <input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> 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 | /Keith J. Murphy/ | Date (YYYY-MM-DD) | 2010-08-24 |
| Name | Keith J. Murphy | Registration Number | 33979 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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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. 5743335 :
Issue Date: April 28,1998 :
Application No. 08534552 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 27,1995 :
Attorney Docket No. BAKER-113/P1 :

This is a decision on the electronic petition, filed August 24,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 24,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



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OFFICE OF PETITIONS

JACQUELINE E HARTT
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In re Patent No. 5,724,867 :
Issue Date: March 10, 1998 :
Application No. 08/535,767 : ON PETITION
Filed: September 28, 1995 :
Attorney Docket No. 95-P-16368 :

This is a decision on the petition under 37 CFR 1.378(c), filed December 28, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 10, 2010 for failure to pay the 11 ½ 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 undersigned at (571) 272-1642.


April M. Wise
Petitions Examiner
Office of Petitions



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CLEVELAND, OH 44114

MAILED

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OFFICE OF PETITIONS

Decision on Petition

In re Patent of McMahon et al. :
Patent No. 5,616,851 :
Issue Date: April 1, 1997 :
Application No. 08/536,209 :
Filing Date: September 29, 1995 :
Attorney Docket No. 33572.04008 :

This is a decision on the petition filed June 4, 2010, under 37 CFR 1.378(b) to reinstate the above-identified patent.

The petition is **DISMISSED**.

Background

During all the relevant time periods discussed in this decision, Farmex, Inc. ("Farmex") and Worens Group, Inc. ("WG") were commonly owned by Stafford Worley and Gerald Stephens.

Patent Attorney Vytas R. Matas, a sole practitioner, represented Farmex and WG, with respect to intellectual property matters from the early 1990s until Matas retired from the practice of law during 2009.

The instant application was filed September 29, 1995.

During September 1995, the inventors assigned their rights in the application to Farmex.

Matas prosecuted the application on behalf of Farmex.

The application issued as Patent No. 5,616,851 on April 1, 1997.

During July 1999, Farmex assigned all its rights in the patent to WG.

The 3.5 year maintenance fee and a surcharge of \$130 were paid December 5, 2000.

The 7.5 year maintenance fee could have been paid April 1, 2004, to October 1, 2004, or with a surcharge from October 2, 2004, to April 1, 2005. The fee was not timely paid. As a result, the patent expired April 2, 2005.

During August 2009, Agratronix LLC ("Agratronix") engaged the services of Calfee, Halter & Griswold LLP ("Calfee") to prepare and file a new patent application. Agratronix subsequently instructed Calfee to oversee all of Agratronix's issued patents.

Agratronix requested Calfee identify all patents owned by Farmex, WG, or Agratronix. On September 10, 2009, Calfee provided Agratronix with a letter responding to the request. The letter identified five expired U.S. patents, 1 expired Canadian patent, and three non-expired U.S. patents.

Between September 10, 2009, and October 23, 2009, Calfee investigated the reasons each the six expired patents had become expired. Calfee discovered three of the U.S. patents and the Canadian patent had intentionally been allowed to expire. Calfee discovered the expiration of the instant patent and Patent No. 6,637,259 had been unintentional.

On an unidentified date during October 2009, Agratronix LLC ("Agratronix") purchased all the assets of the Farmex Electronics division of Worens Group, Inc. The assets included all rights in the instant patent.

A petition under 37 CFR 1.378(c) to reinstate Patent No. 6,637,259 was electronically filed and granted on October 27, 2009.

The instant petition asserts "considerable effort" was required to investigate the facts and circumstances surrounding the expiration of the instant patent because the patent had expired during 2005. The petition states, "The effort was slightly delayed because [of] harvest time in the fall of 2009 [and the fact] Agratronix's employees were extremely busy during this time."¹

The petition states,

Mr. Matas ... is in poor health and was in and out of a hospital in Florida and in rehabilitation from October 2009 through today. Consequently, Calfee was unable to speak with Mr. Matas regarding [the issues in this case] until February 10, 2010.²

Matas informed Calfee that Matas' file for the instant patent was locked up in his office in Ohio. Matas arranged for the file to be forwarded to Agratronix, who then forwarded the file to Calfee on March 16, 2010.

Calfee was unable to find any information concerning the 7.5 year fee or the 11.5 year fee in the file for the instant patent. In order to obtain additional documentation and to ensure papers

¹ Page 13.

² Page 14 (citations omitted).

involving the instant patent had not been misfiled, Calfee requested Matas transfer all of Agratronix's files to Calfee. Calfee received these files on March 30, 2010.

Several of the files included letters to Farmex or WG regarding maintenance fees and three of the files contained responses instructing Matas to allow those three patents to expire.

After reviewing the files, Calfee contacted Matas for additional information. In early April 2010, Matas informed Calfee that a may have sent WG a reminder by e-mail without placing a copy of the e-mail in the file.

On an unspecified date, Calfee requested Matas send Calfee a copy of all stored e-mail communications regarding the instant patent for the years surrounding the time period during which the 7.5 year maintenance fee was due. Matas supplied Calfee with the e-mails on May 4, 2010, and Calfee reviewed the e-mails from May 4, 2010, to mid-May 2010. The e-mails did not contain any additional information regarding the 7.5 year fee or the 11.5 year fee for the instant patent.

The instant petition was filed by facsimile transmission on June 4, 2010.

Law

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Director that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable.

In order for a party to show unavoidable delay, the party must show "reasonable care was taken to ensure that the maintenance fee would be promptly paid."³ The level of "reasonable care" required to be shown is the same as the level of "care or diligence ... generally used and observed by prudent and careful men in relation to their most important business."⁴ When determining if a period of delay has been shown to have been unavoidable, the Office will take "all the facts and circumstances into account" and will decide each petition "on a case-by-case basis."⁵

A party may not establish unavoidable delay by proving the party shifted the burden to take appropriate actions to a third party. If one chooses to rely on the actions or inactions of a third party, one will be bound by such actions or inactions.⁶ Therefore, a maintenance fee is not paid

³ 37 CFR 1.378(b).

⁴ *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

⁵ *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982).

⁶ *Huston v. Ladner*, 973 F.2d 1564, 1567, 23 U.S.P.Q.2D (BNA) 1910 (Fed. Cir. 1992).

as a result of a party's reliance on a third party, such as an attorney, to take certain steps, a petition must address not only the party's actions *but also* must address the third party's actions or inactions. A showing is insufficient if it merely establishes that petitioner did everything petitioner could do monitor the agent's actions and inactions, but fails to address the agent's conduct.⁷

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. 35 U.S.C. 41(c)(1) states, with emphasis added, "The Director may accept the payment of any maintenance fee . . . after the six month grace period if the delay is *shown to the satisfaction of the Director* to have been unavoidable." The decision will be based solely on the written, administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

The Office and Congress have recognized the unavoidable standard can be very difficult to meet. During 1992, Congress considered the difficulty involved in reinstating a patent under the unavoidable. Congressional representatives described the unavoidable standard as inflexible, extremely hard to meet, too stringent and harsh.⁸ Congress did NOT take steps to make the unavoidable standard more flexible, easier to meet, less stringent, or less harsh. Instead, Congress determined that it would allow patent owners the ability to reinstate a patent under an "unintentional" standard as long as the petition was filed within 24 months of the expiration of the patent. Congress chose to continue requiring proof of unavoidable delay for petitions filed after the 24 month time period.

Discussion

Issue 1

When determining if the failure to pay a maintenance fee was unavoidable, one must consider the actions of the party who was responsible for timely paying the fee.⁹ At the time the patent expired, the owner of record was WG. Therefore, the Office must initially consider WG's conduct up until the date Agratronix purchased the patent.

⁷ See *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 396, 397 (1993) ("The [Circuit] court also appeared to focus its analysis on whether respondents did all they reasonably could in policing the conduct of their attorney, rather than on whether their attorney, as respondents' agent, did all he reasonable could to comply with the court-order bar date. In this, the court erred. . . . [I]n determining whether respondents' failure to file their proof of claim prior to the bar date was excusable, the proper focus is upon whether the neglect of respondents *and their counsel* was excusable." (emphasis in original)).

⁸ "[The unavoidable] standard has been found to be extremely hard to meet. Some patent owners have lost their patent rights due to this inflexible standard." 138 CONG. REC. S16613, 16614 (September 30, 1992) (Rep. DeConcini) (emphasis added). "The unavoidable standard has proved to be too stringent in many cases." 138 CONG. REC. H1115 (October 3, 1992) (Rep. Hughes) (emphasis added). "The unavoidable standard is too stringent. Some patent owners have lost their patent rights due to circumstances that do not warrant this harsh result, but that could not be considered 'unavoidable' under current law." 138 CONG. REC. E1688 (June 4, 1992) (extension of remarks of Rep. McCollum) (emphasis added).

⁹ See *Kim v. Quigg*, 718 F.Supp. 1280, 1284, 12 U.S.P.Q.2d (BNA) 1604, 1607 (E.D. Va. 1989).

WG relied on Matas to either pay the 7.5 year maintenance fee when the fee became due or to notify WG when the fee became due.

In view of WG's reliance on Matas, the first issue the Office will address is:

Did Matas, when handling his duty to pay the 7.5 year maintenance fee or notify WG when the fee became due, exercise the same level of care generally used by reasonable and prudent individuals when handling their most important business?

Matas' Docketing System

Matas' normal practice was to docket "upcoming due dates by hand written notation on [his] personal flip calendar. Matas Decl. ¶ 13. Matas then "used [his] personal flip calendar docketing system and the Maintenance Fee Reminder from the PTO to track upcoming maintenance fee due dates." *Id.* ¶ 14. Prior to the due date for a maintenance fee, Matas would "send a letter to Farmex or, later WG reminding it of upcoming dates for payment of maintenance fees." *Id.* ¶ 15. Matas states,

My procedure was to receive the Maintenance Fee Reminder form from the PTO and then send a letter to Farmex or Worrens Group directing them to send a check for the upcoming maintenance fee to me and I would then pay the PTO for the maintenance fee.

Id. ¶ 16.

The record indicates Matas may have relied, at least in part, on the receipt of maintenance fee reminders from the Office when tracking and/or paying maintenance fees. As a courtesy, if Office records indicate a maintenance fee has not been paid after half of the year during which it can be paid has passed, the Office normally sends a maintenance fee reminder to the address of record. However, Congress has not passed legislation requiring the PTO to send maintenance fee reminders. The Office sends these reminders at its complete discretion and could discontinue the practice at any time.¹⁰ The ultimate responsibility for tracking maintenance fee due dates lies with the patentee, not the USPTO.¹¹

¹⁰ "Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) ... [T]he Commissioner's interpretation of 'unavoidable' and of the PTO's duty to provide reminder notices then, do not plainly contradict the statute. For this reason, we must accord deference to the Commissioner's no-timely-notice interpretation." *Ray v. Comer*, 1994 U.S. Dist. LEXIS 21478, 8-9 (1994), *aff'd on other grounds Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citing *Rydeen v. Quigg*, 748 F. Supp. 900, 905 (1990), *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984)). "The Court concludes as it did in *Rydeen*, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute.'" *Id.* at 3 (citing *Rydeen v. Quigg*, 748 F. Supp. at 906, *Texaco v. Short*, 454 U.S. 516, 536, (1982)). See also *MMTC, Inc. v. Rogan*, 569 F. Supp. 2d 657 (E.D. Va. 2004).

¹¹ *Id.*

Since a party may not rely on maintenance fee reminders to track maintenance fee due dates, the Office must determine whether the record is sufficient to establish the “personal flip calendar” system used by Matas was reasonable and reliable.

The current record fails to adequately describe Matas’ “personal flip calendar” system. As a result, the Office is unable to properly evaluate the reliability of the system based on the current record. In other words, the current record fails to prove the system was reliable. Any request for reconsideration should include a full discussion of Matas’ system which, at a bare minimum, includes answers to the following questions:

- (1) What dates in the calendar were notated by Matas when entering a patent into the calendar? For example, did Matas notate the first date the fee could be paid, the last date the fee could be timely paid without a surcharge, and/or the last date the fee could be paid with a surcharge?
- (2) For each date in (1), what notation would have been entered on the calendar?

Matas appears to use the phrase “due date” when discussing maintenance fees to refer to the last date the fee could have been paid without a surcharge. As a result, paragraphs 15 and 16 *appear* to be referring to two different letters. However, in order to ensure the record is completely clear, any request for reconsideration should confirm the paragraphs refer to two different letters. Any request for reconsideration should also discuss the content of each letter. For example, did the first letter request a client forward any maintenance fees identified in the letter to Matas in order for Matas to pay the fees to the Office?

The Failure of the Docketing System in This Case

Matas believes he “entered a directive to pay the 7.5 year maintenance fee [in his] flip calendar” in view of a conversation Matas had with WG involving a May 2003 letter referencing the patent. However, Matas did not pay the 7.5 year fee.

Matas asserts his health issues were the reason the “flip calendar handwritten system did not catch the due dates for the 7.5 year maintenance fee.” *Id.* ¶ 46. Matas states, “Absent my poor health in 2004 and 2005, the 7.5 year maintenance fee and the 11.5 year maintenance fee would have been timely paid.” *Id.* ¶ 47.

The record fails to demonstrate Matas’ health issues were a “but for” cause of his failure to either pay the 7.5 year fee or notify WG of the need to pay the fee when the fee became due.

Matas indicates, on *unspecified* dates during 2004-2005, he had heart surgery and had neck surgery. Matas asserts he spent months in rehabilitation after each surgery. Matas states, “Both these surgeries and rehabilitation periods caused me to be away from my legal practice for significant periods during 2004 and 2005.” *Id.* ¶ 37. Matas also states, “While I was hospitalized and in rehabilitation, my wife brought me my mail and I provided her with instructions on certain tasks that needed to be completed.” *Id.* ¶ 38.

The record fails to identify the dates Matas underwent the surgeries and the subsequent rehabilitation. As a result, the Office is unable to determine the extent to which these events

“overlap” with relevant time frames in this case. For example, based on the current record, the first surgery could have taken place on December 15, 2004. However, if the first surgery took place on December 15, 2004, then the surgeries and rehabilitation would fail to Matas’ failure to take any action to either pay the fee or notify WG of the need to pay the fee, from the time period beginning April 1, 2004, the first date the fee could have been timely paid, to December 14, 2004. Any request for reconsideration should clearly identify the date Matas had heart surgery and clearly identify the date Matas had neck surgery. Any request for reconsideration should also discuss the date during which Matas underwent rehabilitation.

Matas states, “While I was hospitalized and in rehabilitation, my wife brought me my mail and I provided her with instructions on certain tasks that needed to be completed.” *Id.* ¶ 38. However, Matas does not indicate whether or not he requested his wife bring him his flip calendar?

Any request for reconsideration should discuss whether or not Matas requested his wife bring him his flip calendar. If he did not make such a request, any request for reconsideration should discuss the reasons Matas failed to make such a request.

The fact an individual was undergoing rehabilitation on a specific date is not, in and of itself, proof the individual was incapable of working on a specific date. An individual unable to work on day 1 of the rehabilitation may well be able to work on day 100 of the rehabilitation. Therefore, in addition to identifying dates Matas underwent rehabilitation, any request for reconsideration should fully discuss Matas degree of impairment during the dates. If a request for reconsideration is filed, Petitioner may wish to identify the specific dates Matas was undergoing each of the four main phases of rehabilitation following heart bypass surgery and a person. The four phases are:

- Phase I: Rehabilitation at the hospital prior to discharge such as supervised light exercise such as walking down halls or climbing stairs;
- Phase II: This is an early outpatient phase, which normally takes place two to six weeks after discharge for the hospital and can include one-hour meetings three or more times a week;
- Phase III: This phase usually takes place about six to fourteen weeks after discharge and can include a supervised ongoing exercise program;
- Phase IV: This phase is an ongoing wellness program which can also involve supervised exercise routines.¹²

Although the petition does not identify the specific dates Matas was incapable of working, the Office takes judicial notice of the filing dates for the following applications, which appear to have been filed by Matas and which *appear* to indicate Matas was capable of working on a variety of dates during 2004 and 2005:

| <u>Filing Date</u> | <u>Application</u> |
|--------------------|--------------------|
| 01/07/04 | 10/753,039 |
| 01/13/04 | 60/536,147 |

¹² See <http://www.cardiac-risk-assessment.com/heart-disease-treatment/cardiac-rehabilitation>.

| | |
|----------|------------|
| 01/29/04 | 60/540,164 |
| 02/05/04 | 60/542,002 |
| 03/22/04 | 60/555,107 |
| 03/25/04 | 10/809,074 |
| 05/14/04 | 60/571,468 |
| 06/12/04 | 10/866,121 |
| 06/30/04 | 10/881,054 |
| 08/02/04 | 60/598,027 |
| 08/27/04 | 60/605,351 |
| 09/15/04 | 10/941,726 |
| 09/29/04 | 60/614,086 |
| 10/08/04 | 60/617,024 |
| 01/11/05 | 11/032,905 |
| 01/21/05 | 11/040,856 |
| 03/09/05 | 11/076,147 |
| 03/10/05 | 60/660,298 |
| 03/24/05 | 60/664,564 |
| 05/11/05 | 11/126,656 |
| 05/13/05 | 60/680,909 |
| 08/23/05 | 11/209,902 |
| 12/06/05 | 11/295,375 |

Any request for reconsideration should *fully and clearly* identify all dates (during 2004-2005) Matas was capable of performing work such as drafting applications or drafting papers to be filed in an existing application.

If Matas' health problems prevented him from paying the 7.5 year fee in this case or notifying WG when the fee became due, then his health problems likely caused him to fail to pay fees for other patents or notify other clients when such fees became due. Any request for reconsideration should identify all cases handled by Mathas for which a maintenance fee became due between April 1, 2004, and April 1, 2005, and indicate whether or not Mathas timely paid the fee or notified the client when the fee became due.

Matas' Failure to Make Alternative Arrangements for Either Timely Paying the 7.5 Year Maintenance Fee or Notifying WG When the Fee Became Due

Even if the record established Matas' health prevented him from timely paying the 7.5 year maintenance fee and from notifying WG when the fee became due, the showing of record would be insufficient to establish the failure to timely pay the fee was unavoidable.

A reasonable attorney treating the attorney's obligation to either notify a client of the need to pay a maintenance fee when the fee becomes due or to pay the fee with the same level of care normally used by prudent and careful individuals when handling their most important business, would notify a client or obtain co-counsel for assistance if the attorney's health began to impair the attorney's ability to take such actions.

Matas does not appear to have notified WG that WG should independently monitor maintenance fee due dates for its patents, or obligate another party to monitor the maintenance fee due dates. Matas does not appear to have obtained assistance in handing his legal obligations to WG from another patent attorney or a patent agent. The record fails to establish Matas' health rendered him incapable of taking the prior actions.

Any request for reconsideration should fully discuss the extent to which Matas' health rendered him incapable of notifying WG that WG should independently monitor maintenance fee due dates for its patents, or obligate another party to monitor the maintenance fee due dates. Any request for reconsideration should also fully discuss the extent to which Matas' health rendered him incapable of obtaining assistance from another patent attorney or a patent agent.

Matas' Conduct Following the Expiration of the Patent

A showing under 37 CFR 1.378(b) must establish the *entire* delay in the submission of the maintenance fee was unavoidable. Specifically, the record fails to establish Matas' failure to learn the patent had expired during the years following the patent's expiration on April 2, 2005, was unavoidable.

The record fails to demonstrate Matas' health prevented him during all of 2006 and 2007, from:

1. Personally reviewing his past records to determine if he had missed any legal deadlines, or failed to notify any clients of any legal deadlines, during 2004 and 2005 due to his health,
2. Employing another individual to review Matas' past records to determine if Matas had missed any legal deadlines, or failed to notify any clients of any legal deadlines, during 2004 and 2005 due to his health, and/or
3. Contacting WG to inform WG that Matas may have missed have missed one or more legal deadlines, or failed to notify WG of one or more legal deadlines, during 2004 and 2005.

The record fails to prove Matas' failure to take the actions above did not result in any delay in the filing of a petition under 37 CFR 1.378 by delaying the discovery the patent had expired.

Issue 2

On September 10, 2009, Calfee provided Agratronix with a list of patents. The list indicated the instant patent was expired. A petition to reinstate the patent was not filed until 8 months and 24 days later on June 4, 2010. A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Director that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. Therefore, the Office must determine:

Has Petitioner established the entire delay from the date Petitioner learned of the patent's expiration until the date the petition was filed was unavoidable?

The instant petition asserts “considerable effort” was required to investigate the facts and circumstances surrounding the expiration of the instant patent because the patent had expired during 2005. The petition states, “The effort was slightly delayed because [of] harvest time in the fall of 2009 [and the fact] Agratronix’s employees were extremely busy during this time.”¹³ Delay resulting from a preoccupation with other matters, which are given precedence over an application or patent, is not unavoidable delay.¹⁴ Any request for reconsideration should fully discuss the nature and extent of the delay resulting from activities involving harvest time.

A September 10, 2009 communication from Calfee informed Petitioner the instant patent, four other U.S. patents, and one Canadian patent. The petition appears to imply the only work performed by Calfee involving the instant patent during the more than 6-week time period from September 10, 2009, to October 27, 2009, was discovering WG had not intentionally allowed the instant patent to expire. However, in view of a license agreement involving the patent cited in the petition, the record would appear to indicate Calfee should have been able to promptly discover WG did not intentionally allow the patent to expire. Any request for reconsideration should *fully* discuss all work involving discovering the status of the patent or reinstatement of the patent performed by Calfee or any other party the time period from September 10, 2009, to October 27, 2009.

Calfee asserts Calfee was unable to speak with Matas until February 10, 2010, five months after discovering the patent had expired. However, Calfee does not fully discuss any attempts made to contact and/or speak with Matas prior to February 10, 2010. Any request for reconsideration should *fully* discuss all actions Calfee took as part of any attempts to contact and/or speak with Matas. For example, the request should fully discuss the first date made an attempt to contact Matas and the nature of the attempt by Calfee.

Prior to February 10, 2010, Calfee had months of time to learn many, if not all of, the facts relevant to the expiration of the patent excluding facts that could only be obtained from Matas. On March 30, 2010, Calfee received a copy of Matas’ files for the other Agratronix patents. As of March 30, 2010, almost seven weeks had passed since Calfee had received a copy of Matas’ file for the instant patent. On March 30, 2010, Calfee received a copy of Matas’ files for the other Agratronix patents. However, a petition was not filed until June 4, 2010.

The petition appears to assert the 5 weeks of delay in filing the petition from March 30, 2010, until June 4, 2010, was the result of Matas informing Calfee, during early April 2010, that Matas *might* have sent an e-mail concerning the fee for the instant patent to WG in the past. The Office notes such an e-mail was not discovered during the subsequent investigation by Calfee. The record fails to establish the five weeks of delay in filing the petition, following almost 29 weeks

¹³ Page 13.

¹⁴ “[T]he preoccupation of plaintiff’s attorney with other legal matters or with moving his residence does not relieve him of the burden of complying with the Patent Office regulations. Plaintiff’s delay due to his inadvertence or mistake does not constitute ‘unavoidable’ delay.” *Smith v. Diamond*, 209 U.S.P.Q. (BNA) 1091 (D.C. Cir. 1981) (citing *Potter v. Dann*, 201 U.S.P.Q. 574,575 (D. D.C. 1978)). *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 398 (1993) (“In assessing the culpability of respondents’ counsel, we give little weight to the fact that counsel was experiencing upheaval in his law practice at the time of the bar date.”)

of prior delay, was unavoidable delay. The possible existence of an e-mail did not prevent Petitioner from filing a petition. If Petitioner had believed such evidence might exist and be relevant, Petitioner could have filed a petition under 37 CFR 1.378(b) along with a request for the Office to postpone a decision on the petition until Petitioner can supplement the petition.

Fees

Upon receiving the petition, the Office charged \$1,240 for the 7.5 year maintenance fee and \$700 for the required surcharge to Deposit Account No. 03-0172.

A review of the petition indicates the petition includes authorization to charge the 11.5 year maintenance fee to the deposit account. Therefore, the Office is charging the \$2,055 fee to the deposit account.

Conclusion

Petitioner has the burden of proof.

Petitioner has failed to prove the entire delay in the submission of the 7.5 year maintenance fee was unavoidable. Therefore, the petition cannot be granted.

Petitioner's current options

I. Petitioner may file a request for reconsideration.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. 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. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.378(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

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

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Since the petition is dismissed, petitioner may request a refund of the maintenance fee and surcharge. Petitioner is reminded that if a request for reconsideration is later filed along with the

\$400 fee, the \$400 will not be refunded. A request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

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

By Internet: A request for reconsideration may be filed electronically using EFS Web.¹⁵ Document Code "PET.OP" should be used if the request is filed electronically.

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

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

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

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

¹⁵ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 6340403 | 2002-01-22 | 08538838 | 1995-10-04 | IL-9273B |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /John H. Lee, #53,193/ | Date (YYYY-MM-DD) | 2010-10-28 |
| Name | John H. Lee | Registration Number | 53193 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6340403 :
Issue Date: January 22,2002 :
Application No. 08538838 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 4,1995 :
Attorney Docket No. IL-9273B :

This is a decision on the electronic petition, filed October 28,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 28,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

MAILED

DEC 23 2010

OFFICE OF PETITIONS

In re Patent No. 5,712,985 :
Issue Date: 27 January 1998 :
Application No. 08/542,847 : Request For Information
Filed: 13 October 1995 :
Attorney Docket No. 53632/2 :

This is a Request for Information in response to the petition under 37 CFR 1.378(b), filed October 21, 2009, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

If reconsideration of this matter is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). The petition fee as set forth in 37 CFR 1.17(f) of \$400 was submitted with the petition filed October 21, 2009 and thus no fee is due. The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

The petition sets forth three points of consideration as to why the maintenance fee was delayed and should be accepted:

- 1) Petitioner, Park City, Group, Inc. ("Park City" or "Petitioner") relied upon patent counsel for the service of tracking and paying maintenance fees.
- 2) Petitioner's Chief Financial Officer, Peter Jensen passed away which caused disruption to petitioner's business.
- 3) Administrative error occurred in not transmitting the file for this patent to petitioner's then patent counsel.

Petitioner's points will be addressed below and the issues presented.

1) Reliance on Patent Counsel

Petitioner states that Park City relied upon patent counsel to assist with patent matters. The following list of patent counsels is constructed from the petition filed April 28, 2008.

| | Patent Counsel | Term |
|---|------------------|--------------------------------------|
| 1 | Fenwick & West | Start date unknown to April 10, 2001 |
| 2 | | April 10, 2001 to January 2002 |
| 3 | Madsen & Metcalf | January 2002 to March 20, 2003 |
| 4 | Stoel Rives | March 20, 2003 to present |

Line 2 has been left blank since Park City did not have patent counsel at that time. Park City states that patent counsel was used to track and pay maintenance fees. Thus Park City would appear to be responsible for tracking and paying maintenance fees during the period from April 10, 2001 to January 2002.

It is not clear from the record what system Park City had in place April 10, 2001 to January 2002, to track maintenance fee due dates. Park City states that reliance was made on the Chief Financial Officer (CFO) for tracking and paying maintenance fees. However, Park City has not provided a statement from the Chief Financial Officer for that period, Nayaran Krishnan. Park City's procedures for tracking and paying maintenance fees are critical for understanding what happened in this instance. What procedures did Nayaran Krishnan have in place to ensure that all of petitioner's patent files were being treated as petitioner's most important business? More specifically, what system did Nayaran Krishnan have in place for tracking and paying maintenance fees? Petitioner should be as thorough as possible and should provide supporting evidence where possible or provide an adequate explanation for its absence.

2) Petitioner's Back-Up System

Petitioner argues that reliance was made of the CFO acting as a back-up to the patent counsel for tracking and payment of maintenance fees. Petitioner also argues that the death of CFO Peter Jensen lead to disruption in the business which contributed to the delay in the submission of the maintenance fee. Petitioner has not set forth the system that Peter Jensen had in place to track maintenance fee due dates and pay maintenance fees. While Peter Jensen is dead, the CFO that replaced him, Will Dunlavy should be able to offer insight into the system that Peter Jensen had in place to track maintenance fee due dates. Specifically, what procedures did Peter Jensen have in place to ensure that all of petitioner's patent files were being tracked for maintenance fee payment such that they would be treated as petitioner's most important business? Additionally, what procedures did Will Dunlavy have in place to ensure that all of petitioner's patent files were being tracked for maintenance fee payment such that they would be treated as petitioner's most important business, given that the maintenance fee for this patent was due while Will Dunlavy was CFO? Petitioner should be as thorough as possible and should provide supporting evidence where possible or provide an adequate explanation for its absence.

3) Administrative Error

Park City argues that the delay in submission of the maintenance fee was an administrative error that was unavoidable. The error being that the file for the instant patent was not transmitted to

patent counsel Madsen & Metcalf. Park City has not provided any details as to how the files were handled between the transfer from Fenwick & West to Petitioner, and from Petitioner to Madsen & Metcalf. Also Petitioner has not provided a statement from Nayaran Krishnan explaining how the files were received from Fenwick & West to ensure that all of Petitioner's patent files were delivered, where and how the patent files were stored and treated while in petitioner's custody and control, and finally, how the patent files were delivered to Madsen & Metcalf to ensure that all of the patent files were received by Madsen & Metcalf since they are Park City's most important business. It does not appear that Park City has provided a statement from any individual that was personally involved in the receipt, storage and delivery of the patent files. Specifically, what evidence does Park City have that would show that the patent files were treated as Park City's most important business? Petitioner should be as thorough as possible and should provide supporting evidence where possible or provide an adequate explanation for its absence.

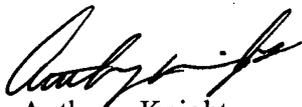
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Telephone inquiries should be directed to the undersigned at (571) 272-3687.



Anthony Knight
Director
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5674132 | 1997-10-07 | 08543813 | 1995-10-16 | FISHER-B |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

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| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Leonard Tachner/ | Date (YYYY-MM-DD) | 2010-10-06 |
| Name | Leonard Tachner | Registration Number | 26344 |

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5674132 :
Issue Date: October 7, 1997 :
Application No. 08543813 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 16, 1995 :
Attorney Docket No. 95-112 :

This is a decision on the electronic petition, filed October 6, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 6, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5792081 | 1998-08-11 | 08544714 | 1995-10-18 | |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

| 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 m. cross/ | Date (YYYY-MM-DD) | 2010-12-03 |
| Name | terry m. cross | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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

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

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



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5792081 :
Issue Date: August 11, 1998 :
Application No. 08544714 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 18, 1995 :
Attorney Docket No. 1806.1-1 :

This is a decision on the electronic petition, filed December 3, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 3, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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



UNITED STATES 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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NOV 21 2011

OFFICE OF PETITIONS

Richard Wunder
49 E. Prescott Avenue
Colonia, NJ 07067

In re Patent No. 5,642,895 :
Issued: July 1, 1997 : REQUEST FOR INFORMATION
Application No.: 08/546,814 :
Filing Date: October 23, 1995 :
Attorney Docket No. :

This is a request for information in response to the petition under 37 CFR 1.378(b), filed October 7, 2011, 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(b) filed October 7, 2011. No additional fees are due.

The patent issued July 1, 1997. The 7.5 year maintenance fee could have been paid July 1, 2004, through January 1, 2005, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from January 2, 2005, to July 1, 2005. Petitioner did not do so. Accordingly, the patent expired at midnight on July 1, 2005. It is also noted that the 11.5-year maintenance fee was due by July 1, 2009, but not received.

Petitioner is required to address the following points:

- A successful petition under 37 CFR 1.378(b) must affirmatively identify the cause of the delay in paying the maintenance fee and provide a statement from every person with first-hand knowledge of the circumstances surrounding the delay in paying the maintenance fee. Petitioner must provide statements from any person who may have been charged with paying the maintenance fee and statements from any person with first-hand knowledge of the circumstances surrounding the failure to pay the maintenance fees.
- 37 CFR 1.378(b)(3) sets forth that a petition submitted under this portion of the Code of Federal Regulations must include a showing which is described as follows:

A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the

expiration of the patent, and the steps taken to file the petition promptly.

Petitioner must, therefore, describe the steps that were in place to ensure that the maintenance fee was timely paid. This showing would include an explanation of who was responsible for paying tracking and paying the maintenance fee and the method this person, or entity, used for tracking the maintenance fee

- Petitioner must describe when petitioner became aware that the patent was expired and the steps petitioner took to reinstate the patent.
- Petitioner is cautioned that Maintenance Fee Reminders are sent as a courtesy. It is well established in case law that non-receipt of a Maintenance Fee Reminder is not a cause for unavoidable delay as the term is used in 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/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



APR 20 2011

Mark J. Pino
CONNOLLY BOVE
LODGE & HUTZ LLP
1875 Eye Street, N.W.
Suite 1100
Washington, DC 20006

In Re: Patent Term Extension
Application for
U.S. Patent No. 6,211,244

APPLICATION NOT ELECTED

The application for patent term extension for U.S. Patent No. 6,211,244, claims of which cover the human drug product SENSIPAR® (cinacalcet hydrochloride), is **dismissed**.

A paper titled "Election of Application for Extension of Patent Term Under 35 U.S.C. § 156 and Pursuant to 37 C.F.R. § 1.785(b)" was filed on November 23, 2010, in the application for patent term extension for U.S. Patent No. 6,211,244. The paper states that "Patentee hereby elects U.S. Patent No. 6,011,068 for patent term extension under 35 U.S.C. § 156, *i.e.*, Patentee does **not** elect the above referenced U.S. Patent No. 6,211,244 nor does Patentee elect U.S. Patent Nos. 6,313,146" (emphasis in the original).

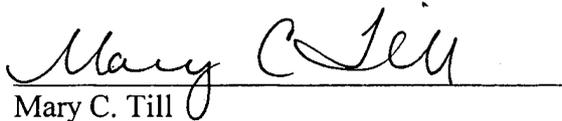
Thus, the application for patent term extension for U.S. Patent No. 6,011,068 will be extended based upon the regulatory review period of SENSIPAR® (cinacalcet hydrochloride). Because only one patent may be extended based upon the regulatory review period of a product, the application for patent term extension for 6,211,244 is **dismissed**.

- A single request for reconsideration of this dismissal of the application for patent term extension may be made if filed within one month of the date of this notice. Extensions of time under 37 CFR § 1.136(a) are not applicable to this time period.

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

By mail: Mail Stop Hatch-Waxman PTE By FAX: (571) 273-7728
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450.

Telephone inquiries related to this determination should be directed to Raul Tamayo at (571) 272-7728.



Mary C. Till
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Associate 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

RE: SENSIPAR® (cinacalcet
hydrochloride)
FDA Docket No.: FDA-2004-E-0270

Attention: Beverly Friedman

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5760443 | 1998-06-02 | 08547080 | 1995-10-23 | IL-9029B |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /James S. Tak, #46367/ | Date (YYYY-MM-DD) | 2011-07-01 |
| Name | James S. Tak | Registration Number | 46367 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 5760443 :
Issue Date: June 2, 1998 :
Application No. 08547080 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 23, 1995 :
Attorney Docket No. IL-9029B :

This is a decision on the electronic petition, filed July 1, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 1, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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GRAY CARY WARE & FREIDENRICH
400 HAMILTON AVENUE
PALO ALTO, CA 94301

MAILED

JUN 17 2011

OFFICE OF PETITIONS

| | | |
|---------------------------------------|---|-----------------------|
| In re Patent No. 5,784,038 | : | |
| Issue Date: July 21, 1998 | : | |
| Application No. 08/547,150 | : | DECISION ON PETITION |
| Filed: October 24, 1995 | : | UNDER 37 CFR 1.378(c) |
| Attorney Docket No. WAH.008USO | : | |

This is a decision on the petition under 37 CFR 1.378(c), filed February 9, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on July 21, 2010 for failure to pay the 11½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

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

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

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The patent file is being forwarded to Files Repository.

A handwritten signature in black ink, appearing to read "Thurman K. Page". The signature is fluid and cursive, with the first name being the most prominent.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **SPYROS LAZARIS**
LAZARIS IP, INC.
2133 SOUTH BENTLEY AVENUE, SUITE 107
LOS ANGELES, CA 90025



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PAUL E HODGES
P O BOX 12369
KNOXVILL TN TN 37912

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OFFICE OF PETITIONS

In re Patent No. 5,635,016 :
Issue Date: June 3, 1997 :
Application No. 08/547,381 : **ON PETITION**
Filed: October 24, 1995 :
Attorney Docket No. **0203.00** :

This is a decision on the petition under 37 CFR 1.378(b), filed April 21, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

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

The patent issued June 3, 1997. Accordingly, the 7½ year maintenance fee due could have been paid during the period from June 3, 2004 through December 4, 2004, or with a surcharge during the period from December 4, 2004 through June 3, 2005. This patent expired at midnight June 3, 2005, for failure to timely submit the 7½ year maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

Petitioner asserts that: (1) on or about May 16, 2005, the Patentee Mark Byerley (Byerley), the former Vice President of Engineering for WYKO, Inc., (assignee) instructed Paul E. Hodges (Hodges), (counsel of record who is now deceased) **not to pay** the 7½ year maintenance fee in the above-identified patent; and (2) Byerley's instructions regarding the non-payment matter were issued to Hodges without the actual consent of WYKO, Inc.

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

As 35 USC § 41(b) 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 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the maintenance fee for this patent. Id.

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

- "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 USC 133 because 35 USC 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 f. 3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving

abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner has stated that Hodges was responsible for tracking and paying the maintenance fee. However, petitioner has provided no evidence as to what steps were in place by the responsible party to track and pay the fee. Petitioner is required to provide a documented showing that Hodges was in fact obligated track and pay the fee on behalf of petitioner along with a complete explanation of the system in place for tracking and paying the maintenance fee and the personnel who administered it, along with supporting documentation. If petitioner cannot show there were any steps in place, then the actions of Byerley are immaterial as it was not the cause of the expiration of the patent. Petitioner must state exactly when and the manner in which petitioner became aware of the expiration of the patent and must also enumerate the steps taken to promptly file the petition.

Petitioner has alleged that Byerley instructed Hodges to not pay the maintenance fee due even though Byerley was not authorized to do so. Petitioner must provide a documented showing of whom at WYKO, Inc. was responsible for communicating with Hodges and who Hodges was authorized to communicate with. Furthermore, petitioner is required to provide a statement from Byerley as to what his responsibilities at WYKO, Inc. were, including whether or not he was authorized to communicate with Hodges with respect to the payment of the maintenance fees for the above-identified patent.

Petitioner has not shown, with supporting documentation, that Hodges had taken any steps to enter the instant patent into a tracking system, much less that the system, if any, was handled by a prudent and careful person with respect to his most important business. That is, there is as of yet no adequate showing that any steps had been taken with respect to scheduling and paying the 7 ½ year maintenance fee. It is pointed out that 37 CFR 1.378(b) is a validly promulgated regulation, which requires a showing of the steps in place

to pay the maintenance fee. Any renewed petition should include a showing that this patent had in fact been entered into a fee tracking system, and be accompanied by a statement by the person responsible for payment of the maintenance fee as to how that system operated. In the absence of a showing that any steps had been taken, then 37 CFR 1.378(b) precludes acceptance of the payment.

The record fails to disclose that Hodges took reasonable steps to ensure timely payment of the 7 ½ year maintenance fee. In fact, the record indicates that no steps were taken to ensure timely payment of the maintenance fee. This is because prior to the expiry of the patent Byerley had instructed Hodges not to pay the maintenance fee. Since no steps were taken, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee.

As the patent holder at the time of expiration, it was incumbent on petitioners to have docketed this patent for payment of the maintenance fee in a reliable system as would be employed by a prudent and careful person with respect to his most important business, or to have engaged another for that purpose. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995). During the fee payment period from June 3, 2004 to May 16, 2005, petitioners allege a third party was engaged for tracking and paying the maintenance fee. However, even where another has been relied upon to pay the maintenance fees, such asserted reliance per se does not provide a petitioner with a showing of unavoidable delay within the meaning of 37 CFR § 1.378(b) and 35 USC § 41(c). Id. Rather, such reliance merely shifts the focus of the inquiry from the petitioner to whether the obligated party acted reasonably and prudently. Id. Nevertheless, a petitioner is bound by any errors that may have been committed by the obligated party. Id.

Petitioner must show what steps they had in place for tracking and paying the maintenance fee due.

Petitioner should note that if this petition is not renewed or is renewed and not granted, then the maintenance fee and post expiration surcharge are refundable. See 37 CFR 1.378(e) and such may be obtained by written request to Mail Stop 16, Refunds Section, at the USPTO address below.

It is noted that the instant petition is signed by Ian Smith, CEO of WYKO, Inc. and registered practitioner Jacob Horton. As there is no statement under 37 CFR 3.73(b) of record, the petition is being treated as signed solely by Jacob Horton.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP

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

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

By Mail: Mail Stop 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 concerning this decision should be directed to JoAnne Burke at (571) 272-4584.


David Eucci
Petitions Examiner
Office of Petitions

Enclosure: A blank certificate under 37 CFR 3.73(b)

cc: Ian Smith
 6435 Highway 411 South
 Greenback, TN 37742

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5653066 | 1997-08-05 | 08547668 | 1995-10-17 | 032700-000012 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /John K. Uilkema/ | Date (YYYY-MM-DD) | 2011-05-04 |
| Name | John K. Uilkema | Registration Number | 20282 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5653066 :
Issue Date: August 5, 1997 :
Application No. 08547668 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 17, 1995 :
Attorney Docket No. SAT-1200 :

This is a decision on the electronic petition, filed May 4, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 4, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,733,731 | 1998-03-31 | 08/548,540 | 1995-10-26 | (24114.001; Cust. 28381) |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Jeffery P. Bernhardt/ | Date (YYYY-MM-DD) | 2012-03-28 |
| Name | Jeffery P. Bernhardt | Registration Number | 54997 |

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

Privacy Act Statement

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

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



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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5733731 :
Issue Date: March 31,1998 :
Application No. 08548540 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 26,1995 :
Attorney Docket No. 16528J-00124 :

This is a decision on the electronic petition, filed March 28,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 28,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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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EDWARD G. GREIVE
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FOURTH FLOOR
FIRST NATIONAL TOWER
AKRON, OH 44308-1456

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Patent No. 5,658,285 :
Issued: August 19, 1997 :
Application No. 08/549,123 : ON PETITION
Filed: October 27, 1995 :
FOR: REHABITABLE CONNECTING- :
SCREW DEVICE FOR A BONE JOINT, :
INTENDED IN PARTICULAR FOR :
STABILIZING AT LEAST TWO :
VERTEBRAE :

This is a decision on the petition under 37 CFR 1.378(e), filed May 28, 2010.

The petition is **DENIED**¹.

BACKGROUND

The patent issued August 19, 1997. The 3.5 year maintenance fee was timely paid. The 7.5 year maintenance fee could have been paid from August 19, 2004 to February 19, 2005 without a surcharge or from February 20, 2005 to August 19, 2005 with a surcharge. The maintenance fee, however, was not submitted. Accordingly, the patent expired August 19, 2005 for failure to timely submit the 7.5-year maintenance fee.

A petition under 37 C.F.R. § 1.378(b) to accept late payment of the maintenance fee was filed February 19, 2009. A decision dismissing the petition under 37 CFR 1.378(b) was mailed March 26, 2010 and is hereby incorporated by reference.

Petitioner, under 37 CFR 1.378(e), in seeking reconsideration of the decision under 37 CFR 1.378(b), attributes the failure to timely pay the maintenance fee to the failure of the U.S. law firm of Harrison & Egbert to timely pay the maintenance fee upon instruction to do so from the French law firm of Cabinet Aymard & Coutel (“the Firm”), the legal representative of the patent holder Aesculap France (“Assignee”).

¹ This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See, MPEP 1002.02.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

In accordance with 35 USC 41(c)(1), “[t]he Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.”

In accordance with 37 CFR 1.378(b), “[a]ny petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include: (1) The required maintenance fee set forth in § 1.20 (e) through (g); (2) The surcharge set forth in § 1.20(i)(1); and (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.”

Further, a petition under 37 CFR 1.378(b) for the acceptance of an unavoidably delayed payment of maintenance fee is considered under the same standard as that for reviving an application unavoidably abandoned under 37 CFR 1.137(a). Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent no. 4,409,763, 7 USPQ2d 1798, 1800 (Comm’r 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*, 503 U.S. 1075(1992)). Decisions on reviving unavoidably abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm’r Pat. 31, 32-33 (Comm’r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm’r Pat. 139, 141 (Comm’r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

FACTS

The facts concerning the non-payment of the 7.5 year maintenance fee were previously set forth by petitioner and summarized in the decision mailed March 26, 2010. In brief, the Aesculap France is the Assignee of the patent. The Assignee is represented in France by Cabinet Aymard & Coutel (“the Firm”). The Firm received instruction from Assignee to pay the 3.5 year maintenance fee for the patent. The Firm engaged the U.S. law firm of Harrison & Egbert to pay

the 3.5 year maintenance fee. Harrison & Egbert paid the 3.5 year maintenance fee and advised the Firm that it had docketed the 7.5 year maintenance fee and would contact the Firm prior to the payment of the 7.5 year maintenance fee. The Firm never received any communication from Harrison & Egbert concerning the 7.5 year maintenance fee for the instant patent.

The Firm received instruction from Assignee to pay the 7.5 year maintenance fee. The Firm then instructed Harrison & Egbert, via facsimile, to pay the 7.5 year maintenance fee. The Firm received a confirmation that the facsimile had been sent and received. The Firm did not receive any direct acknowledgment from Harrison & Egbert that Harrison & Egbert had received the instructions to pay the 7.5 year maintenance fee and that Harrison & Egbert would in fact pay the 7.5 year maintenance fee. Harrison & Egbert did not pay the 7.5 year maintenance fee, resulting in the expiration of the patent.

The Firm billed Assignee for the 7.5 year maintenance fee. The Firm did not receive an invoice from Harrison & Egbert for the 7.5 year maintenance fee.

In 2006, the Firm started using the French firm of Acumass to coordinate maintenance fees and annuities. Acumass sent the Firm a notice to pay the 11.5 year maintenance fee for the instant patent. The Firm received instructions from Assignee to pay the 11.5 year maintenance fee on January 20, 2009. Acumass instructed the U.S. firm of Brevetax LLC to pay the 11.5 year maintenance fee. On January 21, 2009, Brevetax LLC informed Acumass, who in turn informed the Firm, that the patent had lapsed for failure to pay the 7.5 year maintenance fee. The Firm contacted petitioner on January 21, 2009 and the petition under 37 CFR 1.378(b) was filed February 19, 2009.

The instant request for reconsideration does not add any new facts regarding the circumstances that resulted in the expiration of the patent. The instant request for reconsideration is accompanied by a second declaration from Olivier Eidelsberg, counsel with the Firm, along with Exhibits E through L, which attempt to show that the Firm, during the period of time that the 7.5 year maintenance fee was due, had ongoing business concerning other patents with Harrison & Egbert.

DISCUSSION

Assignee engaged the Firm to docket the maintenance fee for the instant patent for payment. The Firm in turn engaged Harrison & Egbert to pay the maintenance fee. The delay in timely submission of the 7.5 year maintenance fee is attributed to Harrison & Egbert, who petitioners assert failed to pay the maintenance fee on behalf of Assignee upon instruction from the Firm.

The record lacks any supporting documentation or statements from Harrison & Egbert to establish that the maintenance fee was in fact docketed for payment by Harrison & Egbert. The record does not conclusively establish that Harrison & Egbert were obligated to pay the maintenance fee on behalf of Assignee upon instruction from the Firm.

The Firm had an expectation that it would receive a maintenance fee reminder from the Harrison & Egbert. The Firm did not receive such a reminder from Harrison & Egbert. Despite the non-

receipt of a reminder from Harrison & Egbert concerning the 7.5 year maintenance fee, the Firm instructed Harrison & Egbert to pay the 7.5 year maintenance fee on behalf of Assignee. The Firm relied on the confirmation of facsimile to conclude that Harrison & Egbert had received the instructions to pay the maintenance fee and had acted upon the instructions to pay the maintenance fee. Even though the Firm did not receive any direct confirmation from Harrison & Egbert that it would act on behalf of Assignee or that it had acted on behalf of Assignee as instructed by the Firm, the Firm presumed that Harrison & Egbert had paid the maintenance fee. Despite receiving no invoice for payment for services rendered from Harrison & Egbert, the Firm concluded that the maintenance fee had been timely paid on behalf of Assignee by Harrison & Egbert.

Upon review of the record, including the declarations and the exhibits, it cannot be found that it was reasonable for the Firm to rely on Harrison & Egbert to pay the 7.5 year maintenance fee for the instant patent upon their faxed instruction to do so. A reasonably prudent person would have taken action to ensure that Harrison & Egbert had received the instructions to pay the maintenance fee and were willing to act on Assignee's behalf. Moreover, a reasonably prudent person would have sought confirmation that the maintenance fee had been timely paid, particularly in light of the fact that the Firm had not received any communication from Harrison & Egbert regarding the 7.5 year maintenance fee for the instant patent. Thus, it cannot be found that the Firm took adequate steps to ensure that the maintenance fee would be timely paid on behalf of Assignee.

Ultimately the patent holder bears the responsibility for timely remittance of the maintenance fee. The Assignee elected to utilize the services of the Firm and, by extension, Harrison & Egbert for the purpose of maintaining the patent. That being the case, the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the patent holder. The Assignee is, therefore, bound by the consequences of the acts and omissions of their freely selected agent. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, the delay caused by mistakes or negligence of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Douglas v. Manbeck, 21 USPQ2d (BNA)(1697)(E.D. PA Nov. 7, 1991).

DECISION

In conclusion, petitioner has failed to establish that the delay in payment of the maintenance fee, from the time that the maintenance fee was due until the filing of a grantable petition, was unavoidable because reasonable care was taken to ensure that the maintenance fee would be paid timely.

The prior decision dismissing petition under 37 CFR 1.378(b) to accept delayed payment of maintenance fee has been reconsidered. For the reasons set forth herein the delay in payment of the maintenance fee cannot be regarded a unavoidable within the meaning of 35 USC 41 and 37 CFR 1.378(b). Accordingly, the offer to pay the delayed maintenance fee will not be accepted and this patent will not be reinstated.

Receipt is hereby acknowledged of the \$400.00 petition fee required under 37 CFR 1.378(e).

As the Office will not accept the delayed payment of the maintenance fees, petitioner is entitled to a refund of the previously submitted \$7,280.00. Petitioner may request a refund in this amount by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Telephone inquiries concerning this matter may be directed to Attorney Advisor Alesia M. Brown at 571-272-3205.



Anthony Knight
Director
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

**EDWARD G. GREIVE
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FIRST NATIONAL TOWER, SUITE 400
106 SOUTH MAIN STREET
AKRON, OH 44308-1412**

MAILED

JUN 28 2011

OFFICE OF PETITIONS

In re Application of :
Thierry Marnay et al :
Application No. 08/549,123 : DECISION ON REQUEST FOR REFUND
Filed: October 27, 1995 :
Attorney Docket No. P/1682-25 :

This is a decision on the Request For Refund received June 20, 2011.

The request is **GRANTED**.

Petitioner files the above request for refund and states that "In conjunction with a Petition under 37 C.F.R. § 1.378(b), maintenance fees in the amount of \$7,280.00 were paid. The Petition was DENIED ... with the indication that the \$7,280.00 would be refunded."

However, a review of Office finance records show that a total of \$7,290.00 (\$4,110.00 + \$3,180.00) was submitted on February 19, 2009 and not \$7,280.00. Therefore, a total of \$7,290.00 is being refunded by check to the attention of Renner Kenner as requested.

Inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5745558 | 1998-04-28 | 08549258 | 1995-10-27 | 2102-1-0040 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

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

Privacy Act Statement

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5745558 :
Issue Date: April 28,1998 :
Application No. 08549258 :DECISION GRANTING PETITION
Filed: October 27,1995 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 2102-1-0040 :

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

The petition is **GRANTED**.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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Clarksville MD 21029

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 5,839,905 :
Issue Date: November 24, 1998 :
Application No. 08/550,976 : **ON PETITION**
Filed: October 31, 1995 :
Attorney Docket No. M-2726-3DUS :

This is a decision on the petition under 37 CFR 1.378(c), filed August 13, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 24, 2010 for failure to pay the eleven 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/
Terri Johnson
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

**LAW OFFICE OF CHARLES E. KRUEGER
P.O. BOX 5607
WALNUT CREEK CA 94596-1607**

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 5,795,156 :
Issue Date: August 18, 1998 :
Application No. 08/551,686 : **NOTICE**
Filed: November 1, 1995 :
Attorney Docket No. 014-1A-1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 12, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED.**

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

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.

Patent No. 5,795,156

Page 2

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: V. Randall Gard
Gard & Kaslow, LLP
4 Main Street, Suite 120
Los Altos, CA 94022

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5844416 | 1998-12-01 | 08552184 | 1995-11-02 | SD5735/S85004 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kevin W. Bieg/ | Date (YYYY-MM-DD) | 2011-03-30 |
| Name | Kevin W. Bieg | Registration Number | 40912 |

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

Privacy Act Statement

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

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

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



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In re Patent No. 5844416 :
Issue Date: December 1,1998 :
Application No. 08552184 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 2,1995 :
Attorney Docket No. S-85.004/SD-

This is a decision on the electronic petition, filed March 30,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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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**JOHN F. BRYAN
8291 LAKESIDE DRIVE
ENGLEWOOD FL 34224**

MAILED

OCT 03 2011

OFFICE OF PETITIONS

DECISION ON PETITION

In re Patent No. 5,711,715 :
Issue Date: January 27, 1998 :
Application No. 08/555,218 :
Filed: November 08, 1995 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.378(c), filed May 12, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED** as time has barred.

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 under 37 CFR 1.378 (c) must be filed within twenty-four months after the six month grace period specified in 35 USC 41(b).

This patent expired on January 27, 1998 for failure to pay the three and one-half year maintenance fee. Accordingly, the three and one-half year maintenance fee due could have been paid during the period from January 27, 2001 through July 27, 2001, or with a surcharge during the period from July 27, 2001 through January 27, 2002. The patent expired at midnight January 27, 2002, for failure to timely submit the three and one-half year maintenance fee.

35 USC 41(c) (1) authorizes the Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unavoidable. Thus, 35 USC 41(c)(1) does not authorize the Commissioner to accept a delayed

maintenance fee payment later than twenty-four (24) months after the expiration of the six-month grace period specified in 35 USC 41(b) unless the delay is shown to have been unavoidable. Since the instant petition was not filed within twenty-four (24) months after expiration of the six-month grace period specified in 35 USC 41(b), the Commissioner cannot accept a delayed maintenance fee payment for the above identified patent under 37 CFR 1.378 (c).

Petitioner may wish to pursue reinstatement of the patent under unavoidable provisions of 37 CFR 1.378(b). A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

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 Michelle R. Eason at (703) 571-272-4231.



Michelle R. Eason
Paralegal Specialist
Office of Petitions



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P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN F. BRYAN
8291 LAKESIDE DRIVE
ENGLEWOOD, FL 34224

MAILED
MAR 30 2012
OFFICE OF PETITIONS

In re Patent No. 5,711,715 :
Issue Date: January 27, 1998 :
Application No. 08/555,218 : DECISION ON PETITION
Filed: November 08, 1995 : UNDER 37 CFR 1.378(b)
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.378(b), filed October 17, 2011, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

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

The patent issued January 27, 1998. Accordingly, the three and one-half year maintenance fee due could have been paid during the period from January 27, 2001 through July 27, 2001, or with a surcharge during the period from July 27, 2001 through January 27, 2002.

The seven and one-half year maintenance fee was due on January 27, 2005 through July 27, 2005, or with a surcharge during the period July 27, 2005 through January 27, 2006.

The eleven and one-half year maintenance fee was due on January 27, 2009 through July 27, 2009, or with a surcharge during the period July 27, 2009 through January 27, 2010.

The patent expired at midnight January 27, 2002, for failure to timely submit the three and one-half year maintenance fee.

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

This petition lacks item (1) above.

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

Petitioner states that the delay in payment of the three and one-half year maintenance fee was unavoidable due to inventor, Dock E. Ringo's medical condition. Petitioner states that he was unaware of the inventor's illness when he, after written notifications to Dock E. Ringo on June 29, 2001, and September 24, 2001 of maintenance fees due. The notification of June 29, 2001 was followed up by telephone with Dock E. Ringo on July 15, 2001. Petitioner also, states that in said conversation with the client, and not realizing the severity of the client's mental and physical condition, believed that he understood the client to say that he was not interested in the patent. The patent expired on midnight January 27, 2002 and on March 5, 2002 a Notification of Patent Expiration was mailed.

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

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

"A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

Petitioner did not provide evidence to show inventor Dock E. Ringo is deceased and the date of death. No evidence was presented to establish who owned the patent or who would be the responsible party, after death of the inventor. No statements have been received from co-inventor James Henry Pearson. A review of the file does not indicate that James Henry Pearson has made an assignment of his rights to the patent.

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

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

Petition must explain the delay by the responsible party in paying the second maintenance fee. Petitioner must also explain the delay that occurred from the time all the responsible parties became aware that maintenance fees were not paid until the filing of the petition.

Petition must explain the delay by the responsible party in paying the third maintenance fee. Petitioner must also explain the delay that occurred from the time all the responsible parties became aware that maintenance fees were not paid until the filing of the petition.

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

As to the health problems, petitioner should note that under the circumstances of this case, petitioner will have to provide documents from licensed health care providers, demonstrating the nature and extent of petitioner's incapacitation, in such a manner that petitioner was, from the date of expiry until the filing of the petition on May 13, 2011, "unavoidably" prevented from taking any earlier action with respect to this patent. **A statement by petitioner that inventor Dock E. Ringo was "not interested in the patent", is considered to be an intentional statement absent sufficient evidence such as court declarations or medical evaluations from licensed health care providers that establishes a fact that the inventor had a medical condition. The facts must be sufficient to establish that there was no comprehension of the July 15, conversation regarding the maintenance fee by the inventor.**

Petitioner must demonstrate that the inventor's health problems were such as to cause the payment of the maintenance fee to have been unavoidably delayed. Petitioners must also explain how the condition of Dock E. Ringo prevented co-inventor James Henry Pearson from following any identified steps in place for payment of maintenance fees.

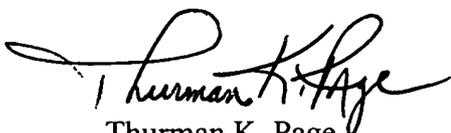
Further correspondence with respect to this matter should be addressed as follows:

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

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

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



Thurman K. Page
Petitions Examiner
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5875396 | 1999-02-23 | 08556333 | 1995-11-13 | GRAW101 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Robert L. Shaver/ | Date (YYYY-MM-DD) | 2011-09-27 |
| Name | Robert L. Shaver | Registration Number | 42145 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Alexandria, VA 22313-1450
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In re Patent No. 5875396 :
Issue Date: February 23, 1999 :
Application No. 08556333 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 13, 1995 :
Attorney Docket No. 030649-003 :

This is a decision on the electronic petition, filed September 28, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 28, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 5987721 :
Issue Date: November 23,1999 :
Application No. 08556915 :DECISION GRANTING PETITION
Filed: August 28,1997 :UNDER 37 CFR 1.378(c)
Attorney Docket No. P-356(UDL) :

This is a decision on the electronic petition, filed March 26,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 26,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | | | | | | | | | | | | | | | | | |
|---|----------------------------|--------------------|-----------------------------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|---|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|--|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5,987,721 | 1999-11-23 | 08/556,915 | 1997-08-28 | 4014-0002-A | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input checked="" type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <p> <input type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input checked="" type="radio"/> The assignee of record of the entire interest </p> | | | | | | | | | | | | | | | | | | | | |

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

| The Assignee of record of the entire interest | | | |
|--|---------------------|-------------------|------------|
| Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest | | | |
| Signature | /Lonnie D. Schnell/ | Date (YYYY-MM-DD) | 2012-03-26 |
| Name | Lonnie D. Schnell | | |
| Enter Reel and Frame Number | | Remove | |
| Reel Number | 016735 | Frame Number | 0399 |
| Enter Reel and Frame Number | | Remove | |
| Reel Number | 027882 | Frame Number | 0196 |
| Click ADD for additional Reel Number and Frame Number | | Add | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED

JAN 04 2011

OFFICE OF PETITIONS

Paper No. 16

In re Patent 5,745,906 :
Issued: April 28, 1998 :
Application No. 08/557,586 : DECISION ON PETITION
Filed: November 14, 1995 :
Attorney Docket No. 24901-0044 :

This is a decision on the petition under 37 CFR 1.182, filed July 15, 2010, to expunge an assignment previously recorded against the above-identified application.

The petition is **DISMISSED**. This is not a final agency action.

Petitioner asserts that the assignment recorded in the Patent Office on May 10, 1996, at Reel/Frame 007933/0196 (Assignment #1) contains an error in the receiving party listed therein. In requesting to expunge this recorded assignment, petitioner states, "[t]he Assignment #1 itself identifies DeltaTech Research, Inc. as the assignee, but the Recordation Cover Sheet erroneously noted Hewlett-Packard Company as the receiving party. The subsequent Assignment, recorded at Reel/Frame 008132/0725 ("Assignment #2), sought to correct this error (see Reel/Frame 008132/0726), but the Recordation Cover Sheet failed to note the "Nature of Conveyance" as a "Corrective Document" (instead identifying it as an "Assignment")." Expunging information from USPTO assignment records requires an extraordinary remedy that is properly addressed under 37 CFR 1.182.

The USPTO will not normally resort to an extraordinary remedy under 37 CFR 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982). Petitioner should note that, as discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can **prove** that:

- (A) the normal corrective procedures outlined in MPEP § 323.01(a) through §323.01(c) will not provide the petitioner with adequate relief; and
- (B) the integrity of the assignment records will not be affected by granting the petition.

The instant petition fails to **prove** items (A) and (B), listed above. Petitioner is encouraged to consider the corrective procedure outlined in MPEP §323.01(a), instead of filing a renewed petition.

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR 3.11. The recording of a document pursuant to 37 CFR 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR 3.54. Such a determination must be made by a competent authority, like a court of appropriate jurisdiction. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992). Accordingly, information will not be expunged from assignment records merely to present correct information in the records.

The required fee of \$400.00 under 37 CFR 1.182 has been charged to Deposit Account 50-1349, as authorized.

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. 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 communication should be directed to Ramesh Krishnamurthy at (571) 272-4914.



Christopher Bottorff
Supervisor,
Office of Petitions

CC: HOGAN LOVELLS US LLP
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5775711 | 1998-07-07 | 08559360 | 1995-11-16 | 95014 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

| 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 | /Wayne Floe/ | Date (YYYY-MM-DD) | 2010-09-23 |
| Name | Wayne Gary Floe | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

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

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5775711 :
Issue Date: July 7, 1998 :
Application No. 08559360 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 16, 1995 :
Attorney Docket No. 95014 :

This is a decision on the electronic petition, filed September 23, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5701340 | 1997-12-23 | 08559606 | 1995-11-20 | 24/1 |

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

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|--------------------|---------------------|------------|
| Signature | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-08 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

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

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

In re Patent No. 5701340 :
Issue Date: December 23,1997 :
Application No. 08559606 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 20,1995 :
Attorney Docket No. 24/1 :

This is a decision on the electronic petition, filed October 12,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,808,654 | 1998-09-15 | 08/559,724 | 1995-11-15 | 105009.61900US |

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

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

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

| | | | | | |
|----------------------------------|-----------|--------|-----------------------|-----------|--------|
| NOT Small Entity | | | Small Entity | | |
| <input type="radio"/> | Fee | Code | <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) | <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) | <input type="radio"/> | 11 ½ year | (2553) |

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael H. Jacobs/ | Date (YYYY-MM-DD) | 2010-12-21 |
| Name | Michael H. Jacobs | Registration Number | 41870 |

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

Privacy Act Statement

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

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

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



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5808654 :
Issue Date: September 15,1998 :
Application No. 08559724 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 15,1995 :
Attorney Docket No. P48-1036 :

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

The petition is **GRANTED**.

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

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



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Alexandria, VA 22313-1450
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**EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614**

**MAILED
JUL 07 2011
OFFICE OF PETITIONS**

In re Patent No. 5,618,306 :
Issued: April 8, 1997 :
Application No. 08/560,441 : **ON PETITION**
Filed: November 17, 1995 :
Attorney Docket No. (CSS-5984) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 10, 2011.

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5738199 | 1998-04-14 | 08561892 | 1995-11-22 | PAT 199 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

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

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- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|------------------|---------------------|------------|
| Signature | /Arman Katiraei/ | Date (YYYY-MM-DD) | 2012-04-12 |
| Name | Arman Katiraei | Registration Number | 63098 |

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

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5738199 :
Issue Date: April 14,1998 :
Application No. 08561892 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 22,1995 :
Attorney Docket No. 4541 :

This is a decision on the electronic petition, filed April 12,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 12,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,650,666 | 1997-07-22 | 08/562,125 | 1995-11-22 | PM95018 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
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SURCHARGE

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

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STATEMENT

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| | | | |
|------------------|---------------------|----------------------------|------------|
| Signature | /Andrew J. Bateman/ | Date (YYYY-MM-DD) | 2010-12-10 |
| Name | Andrew J. Bateman | Registration Number | 45573 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5650666 :
Issue Date: July 22,1997 :
Application No. 08562125 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 22,1995 :
Attorney Docket No. 16820.P094 :

This is a decision on the electronic petition, filed December 10,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
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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) |
|---------------|----------------------------|--------------------|-----------------------------|-------------------------------|
| 5793948 | 1998-08-11 | 08563004 | 1995-11-27 | ID039810-JLR |

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

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

| NOT Small Entity | Small Entity | | | | | | | | | | | | | | | | |
|--|--------------|------|--------------------------------|--------|--------------------------------|--------|--|--------|---|-----|------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|
| <table style="width: 100%;"> <tr> <th style="width: 10%;">Fee</th> <th style="width: 10%;">Code</th> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input checked="" type="radio"/> 11 ½ year | (1553) | <table style="width: 100%;"> <tr> <th style="width: 10%;">Fee</th> <th style="width: 10%;">Code</th> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input type="radio"/> 11 ½ year | (2553) |
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| <input type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | |

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /DJCushing/ | Date (YYYY-MM-DD) | 2010-10-07 |
| 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 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5793948 :
Issue Date: August 11,1998 :
Application No. 08563004 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 27,1995 :
Attorney Docket No. 315772/94 :

This is a decision on the electronic petition, filed October 7,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5706289 | 1998-01-06 | 08564996 | 1995-11-30 | POWER-01001US |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|------------------|----------------------------|------------|
| Signature | /Stuart J. West/ | Date (YYYY-MM-DD) | 2012-01-05 |
| Name | Stuart J. West | Registration Number | 43258 |

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

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5706289 :
Issue Date: January 6, 1998 :
Application No. 08564996 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 30, 1995 :
Attorney Docket No. RLA-10-H :

This is a decision on the electronic petition, filed January 5, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 5, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,682,514 | 1997-10-28 | 08/565,393 | 1995-11-30 | 1244.052 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|--------------------|---------------------|------------|
| Signature | /Kenneth C. Booth/ | Date (YYYY-MM-DD) | 2011-01-27 |
| Name | Kenneth C. Booth | Registration Number | 42342 |

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

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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In re Patent No. 5682514 :
Issue Date: October 28,1997 :
Application No. 08565393 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 30,1995 :
Attorney Docket No. S-00014-001 :

This is a decision on the electronic petition, filed January 27,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 27,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 6356675 | 2002-03-12 | 08566340 | 1995-12-01 | SD5446 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
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SURCHARGE

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|-----------------|----------------------------|------------|
| Signature | /Kevin W. Bieg/ | Date (YYYY-MM-DD) | 2011-02-09 |
| Name | Kevin W. Bieg | Registration Number | 40912 |

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

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, 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. 6356675 :
Issue Date: March 12, 2002 :
Application No. 08566340 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 1, 1995 :
Attorney Docket No. S-81-514/SD-

This is a decision on the electronic petition, filed February 9, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 9, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
| 5725297 | 1998-03-10 | 08570679 | 1995-12-11 | 18463 |
| CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d). | | | | |
| SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27. | | | | |
| LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g) | | | | |
| NOT Small Entity | | Small Entity | | |
| <input type="radio"/> | Fee 3 ½ year | Code (1551) | <input type="radio"/> | Fee 3 ½ year |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year |
| <input type="radio"/> | 11 ½ year | (1553) | <input checked="" type="radio"/> | 11 ½ year |
| <input type="radio"/> | | | <input type="radio"/> | Code (2551) |
| <input type="radio"/> | | | <input type="radio"/> | Code (2552) |
| <input type="radio"/> | | | <input checked="" type="radio"/> | Code (2553) |
| SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee. | | | | |
| MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition. | | | | |
| STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL | | | | |
| PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED | | | | |
| THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES 37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest." I certify, in accordance with 37 CFR 1.4(d)(4) that I am | | | | |
| <input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> 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 | /l/ljr/ | Date (YYYY-MM-DD) | 2012-02-01 |
| Name | Lawrence E. Laubscher, Jr. | Registration Number | 28233 |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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

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

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



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In re Patent No. 5725297 :
Issue Date: March 10,1998 :
Application No. 08570679 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 11,1995 :
Attorney Docket No. 18463 :

This is a decision on the electronic petition, filed February 1,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 1,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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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In re Patent No. 5730852 :
Issue Date: March 24,1998 :
Application No. 08571150 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 12,1995 :
Attorney Docket No. 114-272 :

This is a decision on the electronic petition, filed October 13,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 13,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,730,852 | 1998-03-24 | 08/571,150 | 1995-12-12 | 1951281.00003 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Louis C. Cullman/ | Date (YYYY-MM-DD) | 2010-10-06 |
| Name | Louis C. Cullman | Registration Number | 39645 |

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

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,829,748 | 1998-11-03 | 08/572,026 | 1995-12-14 | P219036.US.02 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /BrettAKlein/ | Date (YYYY-MM-DD) | 2010-12-21 |
| Name | Brett A. Klein | Registration Number | 64448 |

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

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5829748 :
Issue Date: November 3, 1998 :
Application No. 08572026 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 14, 1995 :
Attorney Docket No. :

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

The petition is **GRANTED**.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID MC CUTCHEN
244 SE TIBBETTS STREET
PORTLAND OR 97202

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Patent No. 6,141,034 :
Issue Date: 31 October, 2000 :
Application No. 08/572,785 : DECISION
Filed/Deposited: 15 December, 1995 :
Attorney Docket No.: (None) :

This is a decision on the petition filed on 25 May, 2011, requesting issuance of duplicate Letters Patent for the above-identified patent/application and considered pursuant to 37 C.F.R. §1.182.¹

NOTE:

The address on the petition is other than that of record. A courtesy copy of this decision is being directed to the address on the petition, however, all future correspondence will be directed to the address of record, and a proper Notice must be filed for any change to be made of record.

The petition is **GRANTED.**

BACKGROUND

Petitioner has made demand upon the Office to issue duplicate Letters Patent in the instant matter.

Petitioner has indicated that the patent was not received² and/or cannot be located, and has authorized the charge of fees to a deposit account, previously charged.

¹ The regulations at 37 C.F.R. §1.182 provide:

§ 1.182 Questions not specifically provided for.

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Commissioner, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 Fed. Reg. 41278, Sept. 17, 1982, effective date Oct. 1, 1982; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

² For guidance on the proper showing for an allegation/avermment of "non-receipt" Petitioners' attentions always are directed to the Commentary at MPEP §711.03(c)(l).

The Publishing Division is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to Publishing Division for issuance of duplicate Letters Patent.

The file is being released to the IFW Repository.

Any questions regarding the issuance of the duplicate Letters Patent should be directed to Ollie Person- Office of Data Management FAX: 571-270-9764, or Kimberly Terrell - Office data Management FAX: 571-270-9958

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2³) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s)/inaction.


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

CC:
Ollie Person- Office of Data Management FAX: 571-270-9764
Kimberly Terrell - Office data Management FAX: 571-270-9958

CC
MARGER JOHNSON & MCCOLLOM PC
210 SW MORRISON STREET/STE. 400
PORTLAND OR 97204

³ The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | |
|--|-------------------------|--------------------|----------------------------------|-------------------------------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
| 5786979 | 1998-07-28 | 08574056 | 1995-12-18 | |
| CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d). | | | | |
| SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27. | | | | |
| LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g) | | | | |
| NOT Small Entity | | Small Entity | | |
| <input type="radio"/> | Fee 3 ½ year | Code (1551) | <input type="radio"/> | Fee 3 ½ year |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year |
| <input type="radio"/> | 11 ½ year | (1553) | <input checked="" type="radio"/> | 11 ½ year |
| | | | | Code (2551) |
| | | | | (2552) |
| | | | | (2553) |
| SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee. | | | | |
| MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition. | | | | |
| STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL | | | | |
| PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED | | | | |
| THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES 37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest." I certify, in accordance with 37 CFR 1.4(d)(4) that I am | | | | |
| <input type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input checked="" type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> 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.

| | | | |
|--|---------------------|-------------------|------------|
| 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 | /Barry G. Douglass/ | Date (YYYY-MM-DD) | 2011-07-19 |
| Name | Barry G. Douglass | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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

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

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



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In re Patent No. 5786979 :
Issue Date: July 28,1998 :
Application No. 08574056 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 18,1995 :
Attorney Docket No. M-3337-US :

This is a decision on the electronic petition, filed July 19,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 19,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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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ALLEN L. COHEN
10010 WALSHAM COURT
RICHMOND VA 23233

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Patent No. 5,642,334 :
Issue Date: June 24, 1997 :
Application No. 08/575,669 : **DECISION ON REQUEST FOR REFUND**
Filed: December 18, 1995 :
For: PACING DEVICE FOR TAKING AN :
EXAMINATION :

This is a decision on the Request For Refund filed August 11, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that ... "I overpaid the maintenance fee and surcharge fee (total amount of \$3,695.00) by paying the fees twice while submitting a petition to accept unintentionally delayed payment of maintenance fee in June, 2011."

A review of Office finance records indicates the above. Therefore, a total of \$3,695.00 is being refunded by check as requested.

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

**ROBERT MOLL
1173 ST. CHARLES COURT
LOS ALTOS CA 94024**

**MAILED
MAR 09 2011
OFFICE OF PETITIONS**

In re Patent No. 5,833,753 :
Issue Date: November 10, 1998 :
Application No. 08/575,763 : **ON PETITION**
Filed: December 20, 1995 :
Attorney Docket No. 13880-703 :

This is a decision on the petition under 37 CFR 1.378(c), filed December 27, 2010 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 11, 2010, for failure to pay the eleven 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 Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5657511 | 1997-08-19 | 08576939 | 1995-12-22 | 9581176 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Brian W. Hameder/ | Date (YYYY-MM-DD) | 2010-08-31 |
| Name | Brian W. Hameder | Registration Number | 45613 |

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

Privacy Act Statement

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

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

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



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In re Patent No. 5657511 :
Issue Date: August 19,1997 :
Application No. 08576939 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 22,1995 :
Attorney Docket No. LANMS2 :

This is a decision on the electronic petition, filed August 31,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 31,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | | | | | | | | | | | | | | | | | |
|---|----------------------------|-----------------------|-----------------------------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|---|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|--|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5730830 | 1998-03-24 | 08578322 | 1995-12-26 | 25137-2 | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input checked="" type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <p><input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office</p> <p><input type="radio"/> A sole patentee</p> <p><input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.</p> <p><input type="radio"/> A joint patentee; all of whom are signing this e-petition</p> <p><input type="radio"/> The assignee of record of the entire interest</p> | | | | | | | | | | | | | | | | | | | | |

Under 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 | /Jason P. Nixon/ | Date (YYYY-MM-DD) | 2011-02-07 |
| Name | Jason P. Nixon | Registration Number | 58604 |

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

Privacy Act Statement

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

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

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



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Alexandria, VA 22313-1450
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In re Patent No. 5730830 :
Issue Date: March 24, 1998 :
Application No. 08578322 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 26, 1995 :
Attorney Docket No. ENV1131-01 :

This is a decision on the electronic petition, filed February 7, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 7, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5687986 | 1997-11-18 | 08579827 | 1995-12-28 | SD5545.0/S82904 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Madelynne J. Farber/ | Date (YYYY-MM-DD) | 2011-05-04 |
| Name | Madelynne J. Farber | Registration Number | 45410 |

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

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which 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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In re Patent No. 5687986 :
Issue Date: November 18,1997 :
Application No. 08579827 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: December 28,1995 :
Attorney Docket No. 03549.0051-0 :

This is a decision on the electronic petition, filed May 4,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 4,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



Paper No. 104

PHILIPPE BERNA
MAS LIOTARD
LES BROUSSES
MOLIERES-SUR-CEZE 30410
FRANCE

MAILED
SEP 02 2011
OFFICE OF PETITIONS

| | | |
|-------------------------------|---|-----------------------|
| In re Patent No. 6,505,391 | : | |
| Patentee: Philippe Berna | : | |
| Issue Date: January 14, 2003 | : | FINAL AGENCY DECISION |
| Application No. 08/580,493 | : | |
| Filed: December 29, 1995 | : | |
| Title: PROCESS FOR MAKING A | : | |
| VERSATILE CLAMPING DEVICE | : | |
| DESIGNED TO HOLD OBJECTS | : | |
| WITHOUT DAMAGING THEM, SUCH A | : | |
| DEVICE AND ITS USE | : | |

This is in response to the REQUEST FOR RECONSIDERATION TO THE DECISION OF OCTOBER 1ST, 2010 ON THE RESPONSE TO THE DECISION ON THE PETITION FILED ON JULY 11, 2003 filed November 23, 2010. Receipt of the status request filed November 30, 2010.

This request is **DENIED** with respect to making any change in the decision affirming the conclusion that the patent is subject to the “twenty year patent term provisions” of 35 U.S.C. 154(a)(2) and that subject to any disclaimer, the “twenty year term” of this patent is extended or adjusted under 35 U.S.C. 154(b) by 19 days for examination delay. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review.

BACKGROUND

On December 29, 1995, this application was filed.

On August 23, 2001, a continued prosecution application was filed.

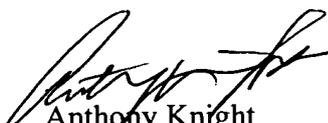
On January 14, 2003, the application issued as U.S. Patent No. 6,505,391, with a patent term adjustment of 19 days.

OPINION

This decision affirms the conclusion that this application is not subject to the patent term provisions for applications filed on or before June 8, 1995 pursuant to the URAA because it claims priority to applications filed on or before June 8, 1995. Rather, because this application was filed on December 29, 1995, which is after the implementation date of URAA, the application is subject to the "twenty year patent term provisions" of 35 U.S.C. 154(a)(2). Moreover, pursuant to the filing of the CPA on August 23, 2001, this application was accorded patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b) and Sections 1.702 through 1.705, the patent issued with the "twenty-year term" and a revised patent term adjustment of 19 days for examination delay.

Patentee's arguments with respect to there being an implied contract are noted; however, the burden of presenting facts to establish that a contract exists, explicitly or otherwise, is petitioner's. Petitioner's citation to the statute in force, prior to June 8, 1995, and the citation of cases not germane to the patent statutes do not establish that any contract exists. Prior to June 8, 1995, Congress set the term for a patent to be 17 years from the date of issuance. The pamphlet produced by patentee merely repeats what the law required; the term of the patent was 17 years from date of issuance. Congress having the power to change the patent laws, amended the law, and the term for a patent was changed to 20 years from the earliest effective filing date. The Constitution provides that Congress shall have power to promote the progress of science and useful arts by securing for limited times to inventors the exclusive right to their discoveries. U.S. Const. art I, §8, cl. 8. The constitutional provision is not self-executing. *Cali v. Japan Airlines, Inc.*, 380 F.Supp. 1120, 1124, 184 USPQ 293, 295 (E.D.N.Y. 1974), *aff'd*, 535 F.2d 1240 (2d Cir. 1975). It empowers, but does not command, Congress to grant patent rights. *Id.* The power of Congress to legislate on the subject of patents is plenary by the terms of the Constitution. *McClurg v. Kingsland*, 42 U.S. (1 How.) 202, 206 (1843). Thus, within the limits of the constitutional grant, Congress may select the policy "which in its judgment best effectuates the constitutional aim." *Graham v. John Deere Co.*, 383 U.S. 1, 6 [148 USPQ 459] (1966). The right to a patent is purely statutory. *DeFerranti v. Lyndmark*, 30 App.D.C. 417, 424 (1908); *Giuliani v. United States*, 8 USPQ2d 1095 (D.Hawaii 1988), *aff'd mem.*, 878 F.2d 1444 [11 USPQ2d 1656] (Fed.Cir. 1989). Inasmuch as Congress creates the right, it may put such limitations upon the right as it pleases. *Mast, Foos & Co. v. Stover Mfg. Co.*, 177 U.S. 485, 494 (1900). Thus, "Congress has full power to prescribe to whom and upon what terms and conditions a patent shall issue." *Owen v. Heimann*, 12 F.2d 173, 174 (D.C. Cir.), *cert. denied*, 271 U.S. 685 (1926); *Kling v. Haring*, 11 F.2d 202, 204-5 (D.C. Cir.), *cert. denied*, 271 U.S. 671 (1926). Notwithstanding petitioner's arguments, nothing within the materials supplied by petitioner show that a contract, implied or otherwise, exists.

Telephone inquiries with regard to this communication should be directed to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.



Anthony Knight
Director
Office of Petitions



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 5802276 :
Issue Date: September 1,1998 :
Application No. 08582551 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 3,1996 :
Attorney Docket No. IBM-5802276US :

This is a decision on the electronic petition, filed September 10,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 10,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,802,276 | 1998-09-01 | 08/582,551 | 1996-01-03 | IBM-5802276US |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|---------------------------|----------------------------|------------|
| Signature | /Jenny Papatolis Johnson/ | Date (YYYY-MM-DD) | 2010-09-10 |
| Name | Jenny Papatolis Johnson | Registration Number | 61284 |

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

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5755044 | 1998-05-26 | 08582894 | 1996-01-04 | |

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

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Albert Haegele/ | Date (YYYY-MM-DD) | 2012-01-13 |
| Name | Albert Haegele | Registration Number | 57655 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.
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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5755044 :
Issue Date: May 26,1998 :
Application No. 08582894 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 4,1996 :
Attorney Docket No. VEYLUP-95-02 :

This is a decision on the electronic petition, filed January 13,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 13,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,725,547 | 1998-03-10 | 08/582,942 | 1996-01-04 | 67113-0011 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /William G. Lane/ | Date (YYYY-MM-DD) | 2010-11-08 |
| Name | William G. Lane | Registration Number | 24761 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when 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.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
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In re Patent No. 5725547 :
Issue Date: March 10, 1998 :
Application No. 08582942 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 4, 1996 :
Attorney Docket No. CHUTER-101-V :

This is a decision on the electronic petition, filed November 8, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 8, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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



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P.O. Box 1450
Alexandria, VA 22313-1450
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HAUGEN AND NIKOLAI
820 INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3325

MAILED

MAY 05 2011

OFFICE OF PETITIONS

In re Patent No. 5,876,052
Issue Date: March 2, 1999
Application No. 08/585,559
Filed: January 12, 1996
Patentee(s): Scott B. Olson, et. al.

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed on April 6, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mark J. Burns 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.

Additionally, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

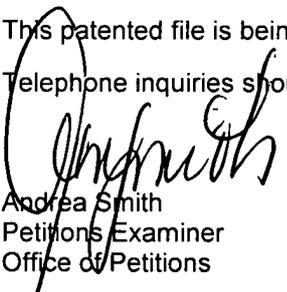
Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

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

It is noted that the address given in the present petition differs from the correspondence address of record. Thus, a courtesy copy of this decision is being mailed to the address given in the petition.

This patented file is being forwarded to Files Repository.

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


Andrea Smith
Petitions Examiner
Office of Petitions

cc: Mark J. Burns
121 South Eighth Street,
1130 TCF Tower
Minneapolis, MN 55402



UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 5874239 :
Issue Date: February 23, 1999 :
Application No. 08586772 :DECISION GRANTING PETITION
Filed: July 15, 1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 16528J392 :

This is a decision on the electronic petition, filed March 2, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 2, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | |
|--|-------------------------|--------------------|----------------------------------|-------------------------------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
| 5,874,239 | 1999-02-23 | 08/586,772 | 1996-07-15 | (24114.001; Cust. 28381) |
| CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d). | | | | |
| SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27. | | | | |
| LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g) | | | | |
| NOT Small Entity | | Small Entity | | |
| <input type="radio"/> | Fee 3 ½ year | Code (1551) | <input type="radio"/> | Fee 3 ½ year |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year |
| <input type="radio"/> | 11 ½ year | (1553) | <input checked="" type="radio"/> | 11 ½ year |
| <input type="radio"/> | | | <input type="radio"/> | Code (2551) |
| <input type="radio"/> | | | <input type="radio"/> | Code (2552) |
| <input type="radio"/> | | | <input checked="" type="radio"/> | Code (2553) |
| SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee. | | | | |
| MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition. | | | | |
| STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL | | | | |
| PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED | | | | |
| THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES 37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest." I certify, in accordance with 37 CFR 1.4(d)(4) that I am | | | | |
| <input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> 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 | /JEFFERY P. BERNHARDT/ | Date (YYYY-MM-DD) | 2012-03-02 |
| Name | Jeffery P. Bernhardt | Registration Number | 54997 |

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



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Paper No.

RINES & RINES
24 Warren St.
CONCORD, NH 03301

MAILED

AUG 05 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,700,858
Issue Date: December 23, 1997
Application No. 08/587,896
Filed: June 8, 1995
Patentee: Thomas Deir, et al.

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:

This is a decision on the petition under 37 CFR 1.378(c), filed July 19, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

This patent issued on December 23, 1997. Accordingly, this patent expired on December 23, 2009 for failure to pay the third maintenance fee. Since the 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).

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).

The petition lacks item (1) above.

The statement of unintentional delay is not considered to be submitted by a proper party as required by 37 CFR 1.378(d), which states that any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

In this regard, the petition is signed by one of two joint inventors. An unsigned paper or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where a petition (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other application.

U.S. Patent No. 5,700,858

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that (person signing petition) was ever given a power of attorney to act on behalf of the other inventors, or that he/she is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)¹, the petition is considered not to contain a proper statement of unintentional delay.

If reconsideration of this decision is desired, a properly signed petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. For applicant's convenience a Statement under 37 CFR 3.73(b) is attached. No extension of this 2-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 such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include any lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the \$2,055 maintenance fee and the \$1,640 surcharge submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Receipt is acknowledged of the change of correspondence address filed July 19, 2011; however, the address will not be changed since the request is not properly signed. Nonetheless, a courtesy copy of this decision is being mailed to petitioner at the address noted on the petition. Unless otherwise directed, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

Further correspondence with respect to reinstatement of this patent 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

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

U.S. Patent No. 5,700,858

Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Statement Under 37 CFR 3.73(b)

cc: THOMAS DEIR
547 ULUMALU STREET
KAILUA, HI 96734

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,809,265 | 1998-09-15 | 08/589,158 | 1996-01-19 | 1795-701 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /U.P. Peter Eng/ | Date (YYYY-MM-DD) | 2010-09-20 |
| Name | U.P. Peter Eng | Registration Number | 39666 |

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

Privacy Act Statement

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

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

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



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In re Patent No. 5809265 :
Issue Date: September 15, 1998 :
Application No. 08589158 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 19, 1996 :
Attorney Docket No. 1795.701 :

This is a decision on the electronic petition, filed September 20, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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



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P.O. Box 1450
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In re Patent No. 5618288 :
Issue Date: April 8, 1997 :
Application No. 08589284 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 22, 1996 :
Attorney Docket No. :

This is a decision on the electronic petition, filed August 31, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 31, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,618,288 | 1997-04-08 | 08/589,284 | 1996-01-22 | M0093.0002/P002 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|-------------------|---------------------|------------|
| Signature | /Gianni Minutoli/ | Date (YYYY-MM-DD) | 2010-08-31 |
| Name | Gianni Minutoli | Registration Number | 41198 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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.
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In re Patent No. 5822291 :
Issue Date: October 13,1998 :
Application No. 08590268 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 21,1995 :
Attorney Docket No. 10435-2 :

This is a decision on the electronic petition, filed June 28,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 28,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,822,291 | 1998-10-13 | 08/590,268 | 1995-11-21 | 067339-0010 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Nathaniel D. McQueen/ | Date (YYYY-MM-DD) | 2011-06-28 |
| Name | Nathaniel D. McQueen | Registration Number | 53308 |

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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SHELDON & MAK
290 NORTH D. STREET
STE 503
SAN BERNARDINO CA 92401

MAILED

JUL 26 2011

OFFICE OF PETITIONS

In re Application of :
Paul L. Brindze et al :
Application No. 08/590,268 : DECISION ON REQUEST FOR REFUND
Filed: November 21, 1995 :
Attorney Docket No. 10435-2 :

This is a decision on the Request For Refund filed July 5, 2011.

The request is **DISMISSED**.

The request for refund is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request for refund is not signed. Note 37 CFR 1.33(b) which states:

- (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
 - (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
 - (3) An assignee as provided for under § 3.71(b) of this chapter; or
 - (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, the \$5,750 (maintenance fee (\$4,110.00 and surcharge petition fee \$1,640.00) charged on June 28, 2011 was authorized by Nathaniel McQueen, Registration No. 53,308. The USPTO records indicate that he is an attorney at McDermott, Will & Emery LLP. Also, Mr. McQueen is an authorized user of the account.

Application No. 08/590,268
Patent No. 5,822,291

-2-

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | | | | | | | | | | | | | | | | | |
|---|----------------------------|--------------------|-----------------------------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|---|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|--|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5833468 | 1998-11-10 | 08590640 | 1996-01-24 | | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input checked="" type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <p><input type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office</p> <p><input type="radio"/> A sole patentee</p> <p><input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.</p> <p><input type="radio"/> A joint patentee; all of whom are signing this e-petition</p> <p><input checked="" type="radio"/> The assignee of record of the entire interest</p> | | | | | | | | | | | | | | | | | | | | |

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

| The Assignee of record of the entire interest | | | |
|--|--------------------|--------------|---------------------------------------|
| Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest | | | |
| Signature | /Frederick R. Guy/ | | Date (YYYY-MM-DD) 2011-03-08 |
| Name | Frederick R. Guy | | |
| Enter Reel and Frame Number | | | <input type="button" value="Remove"/> |
| Reel Number | 009122 | Frame Number | 0625 |
| Enter Reel and Frame Number | | | <input type="button" value="Remove"/> |
| Reel Number | 007867 | Frame Number | 0365 |
| Click ADD for additional Reel Number and Frame Number | | | <input type="button" value="Add"/> |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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

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

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



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In re Patent No. 5833468 :
Issue Date: November 10, 1998 :
Application No. 08590640 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 24, 1996 :
Attorney Docket No. 6053.0001-00 :

This is a decision on the electronic petition, filed March 8, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 8, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 6234939 | 2001-05-22 | 08591801 | 1996-01-25 | |

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

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael I. Kroll/ | Date (YYYY-MM-DD) | 2010-11-02 |
| Name | Michael I. Kroll | Registration Number | 26755 |

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

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

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which 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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In re Patent No. 6234939 :
Issue Date: May 22,2001 :
Application No. 08591801 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 25,1996 :
Attorney Docket No. 1265-004 :

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

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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



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PETER J GORDON
WOLF GREENFIELD AND SACKS
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2211

MAILED

SEP 12 2011

OFFICE OF PETITIONS

In re Patent No. 5,699,809 :
Issue Date: 23 December, 1997 :
Application No. 08/592,655 : **DECISION ON PETITION**
Filed: 26 January, 1996 :
Attorney Docket No. M0867/7008 :

This is a decision on the petition filed on 15 August, 2011, properly treated as a petition pursuant to 37 C.F.R. §1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

NOTE: *The address on the petition is different than that of record.*

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

BACKGROUND

Patent No. 5,699,809 (the '809patent) issued on 23 December, 1997. The third maintenance fee could have been paid during the period from 23 December, 2008, through midnight 23 June, 2009, or, with a surcharge, during the period from 24 June, 2009, through midnight 23 December, 2009.

Patent No. 5,699,809
Application No. 08/592,655

Accordingly, the patent expired after midnight 23 December, 2009, for failure to pay timely the first maintenance fee.

The instant petition was filed on 15 August, 2011. Because the petition was submitted within twenty-four (24) months after the six- (6-) month grace period provided in 37 C.F.R. §1.362(e), the petition was timely filed under the provisions of 37 C.F.R. §1.378(c).

The petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

The maintenance fee is hereby accepted—the appropriate fees were submitted *via* check—and the above-identified patent is reinstated as of the mail date of this decision.

The patent file is being returned to IFW Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2¹) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).


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

CC
JEFFREY VASKE
17310 WRIGHT STREET/STE. 202
OMAHA, NE 68130

¹ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

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

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 6009114 | 1999-12-28 | 08592897 | 1996-01-29 | 050476.010400 |

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Barry J. Schindler/ | Date (YYYY-MM-DD) | 2011-12-30 |
| Name | Barry J. Schindler | Registration Number | 32938 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6009114 :
Issue Date: December 28,1999 :
Application No. 08592897 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 29,1996 :
Attorney Docket No. 1844-4001US1 :

This is a decision on the electronic petition, filed December 30,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 30,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5649437 | 1997-07-22 | 08593346 | 1996-01-29 | 101692.0004US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Andrew Mar/ | Date (YYYY-MM-DD) | 2010-10-08 |
| Name | Andrew Mar | Registration Number | 59698 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5649437 :
Issue Date: July 22,1997 :
Application No. 08593346 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: January 29,1996 :
Attorney Docket No. 1184 PAT :

This is a decision on the electronic petition, filed October 8,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 8,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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DARBY & DARBY
805 THIRD AVENUE
NEW YORK NY 10022

MAILED
SEP 27 2010
OFFICE OF PETITIONS

| | | |
|----------------------------|---|--------------|
| In re Application of | : | Paper No. 19 |
| David C. Watkins et al. | : | |
| Application No. 08/594,175 | : | NOTICE |
| Patent No. 5,874,105 | : | |
| Filed: January 32, 1996 | : | |
| Attorney Docket No. | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

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.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 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.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **IPAN GMB**
RENATE TAYLOR
INTELLECTUAL PROPERTY
ASSOCIATES NETWORK GMBH
MUNCHENER STR. 14
D-85540 MUNCHEN/HAAR



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MAILED

AUG 27 2010

OFFICE OF PETITIONS

Paper No. 23

JENKENS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS TX 75202

In re Patent No. 5,748,740
Issue Date: May 5, 1998
Application No. 08/594,983
Filed: January 31, 1996
Attorney Docket No. 20661/457

ON PETITION

This is a decision on the petition under 37 CFR 1.378(b), filed July 12, 2010, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is DISMISSED.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Commissioner will undertake no further reconsideration or review of the matter.

The patent issued May 5, 1998. The first (3 1/2 year) maintenance fee was due May 5, 2002, and could have been paid from May 5, 2001 through November 5, 2001, or with a surcharge during the period from November 6, 2001 through May 5, 2002. Accordingly, the patent expired at midnight May 5, 2002, for failure to timely submit the first maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1), (2), and (3) above.

Petitioner asserts that the now disbanded firm of Jenkins & Gilchrist was the person responsible for payment of the maintenance fee due.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

As 35 USC § 41(b) 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 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the maintenance fee for this patent. *Id.*

As the patent holder at the time of expiration, it was incumbent on petitioner to have itself docketed this patent for payment of the maintenance fee in a reliable system as would be employed by a prudent and careful person with respect to his most important business, or to have engaged another for that purpose. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995). Even where another has been relied upon to pay the maintenance fees, such asserted reliance per se does not provide a petitioner with a showing of unavoidable delay within the meaning of 37 CFR § 1.378(b) and 35 USC § 41(c). *Id.* Rather, such reliance merely shifts the focus of the inquiry from the petitioner to whether the obligated party acted reasonably and prudently. *Id.* Nevertheless, a petitioner is bound by any errors that may have been committed by the obligated party. *Id.*

However, the record fails to show that adequate steps within the meaning of 37 CFR 1.378(b)(3) were taken by or on behalf of petitioner to schedule or pay the maintenance fee. Petitioner is reminded that 37 CFR 1.378(b)(3) is a validly promulgated regulation, as is the requirement therein for petitioner's showing of the steps taken to pay the fee. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. In the absence of a showing of the steps taken by or on behalf of petitioner, 37 CFR 1.378(b)(3) precludes acceptance of the maintenance fee.

Petitioner asserts that the now disbanded firm of Jenkins & Gilchrist was responsible for payment of the maintenance fee. Therefore, petitioner must provide a statement from the responsible party at Jenkins & Gilchrist showing: (1) the steps that were in place to ensure timely payment of the maintenance fee, (2) a complete explanation of how the system worked, (3) an explanation as to why the system failed in this instance, and (4) a documented showing that Jenkins & Gilchrist was in fact obligated to track the fee on behalf of petitioner. Petitioner is advised, however, that the USPTO is not the forum for resolving a dispute between a patent owner and his representative as to who bore the responsibility for paying a maintenance fee. See Ray, 55 F. 3d at 610, 34 USPQ2d at 1789.

The showing or record is that petitioner was aware or should have been aware that the maintenance fee was due. Why was it reasonable and prudent for petitioner to rely on Jenkins & Gilchrist for timely payment of the maintenance fee? Why was it unavoidable for petitioner to check whether the maintenance fee had been paid and, if the fee had not been paid, pay the fee?

Furthermore, petitioner has not submitted the required maintenance fees for the first (3 ½ year) and second (7 ½ year) maintenance fees (\$930 and \$2,300, respectively) nor have they submitted payment of the surcharge of \$700 set forth in 37 CFR 1.20(i)(1).

Petitioner will not receive future correspondence related to maintenance fees for the above identified patent unless a "fee address" (see PTO/SB/47) is submitted for the above-identified patent. 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.

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

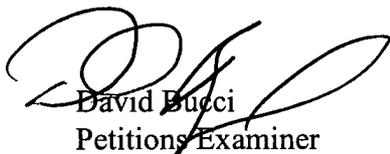
By Hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Patent No. 5,748,740

Page 4

Telephone inquiries should be directed to the April M. Wise at (571) 272-1642.



David Bucci
Petitions Examiner
Office of Petitions

Cc: NORTH WEBER & BAUGH LLP
2479 E. BAYSHORE RD., STE 707
PALO ALTO, CA 94303



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JENKINS & GILCHRIST, PC
1445 ROSS AVENUE
SUITE 3200
DALLAS, TX 75202

MAILED
OCT 17 2011
OFFICE OF PETITIONS

In re Patent No. 5,748,740 :
Issue Date: May 5, 1998 :
Application No. 08/594,983 : ON PETITION
Filed: January 31, 1996 :
Attorney Docket No. 20661/457 :

This is a decision on the renewed petition under 37 CFR 1.378(b), filed October 27, 2010, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DENIED**¹.

BACKGROUND

The above-identified patent issued May 5, 1998. The first (3 ½ year) maintenance fee was due May 5, 2002 and could have been paid from May 5, 2001 through November 5, 2001, or with a surcharge during the period from November 6, 2001 through May 5, 2002. Accordingly, the patent expired at midnight May 5, 2002, for failure to timely submit the first maintenance fee.

A first petition to accept the first (3 ½ year) maintenance fee as unavoidably delayed under 37 CFR 1.378(b) was filed July 12, 2010, and was dismissed in the decision of August 27, 2010. Thus, the earliest the first (3 ½ year) maintenance fee was on filed at the USPTO was 8 years and 5 months after the end of the period.

A renewed petition under 37 CFR 1.378(b) was filed October 27, 2010. Petitioner requested reconsideration and provided the answers to the inquiries for additional information set forth in the adverse decision of August 27, 2010. Petitioners contended that the law firm of Jenkens & Gilchrist, LLC was responsible for notifying the Dallas/Maxim (the Petitioner) when maintenance fees were due and also paying those fees when instructed to do so by Dallas/Maxim

¹ This decision may be view by petitioner as a final agency action within the meaning of 5 USC 704 for purposes of seeking judicial review.
See MPEP 1002.02.

and that the delay was unavoidable due to the failure of Jenkens & Gilchrist, LLC to properly docket the above-identified patent for maintenance fee payment.

STATUTE, REGULATIONS AND EXAMINING PROCEDURE

35 U.S.C. § (2)(b)(2) provides, in part, that:

The Office— may, establish regulations, not inconsistent with law, which

(A) Shall govern for the conduct of proceeding in the Office.

35 U.S.C. § 41(c)(1) provides that:

The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

37 CFR 1.378(b) provides that:

(b) Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:

(1) The required maintenance fee set forth in §1.20(e) through (g);

(2) the surcharge set forth in §1.20(i)(1)' and

(3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

37 CFR 1.378(c) provides 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) (g);

- (2) The surcharge set forth in §1.20(i)(2) ; and
- (3) A statement that the delay in payment of the maintenance fee was unintentional.

OPINION

Petitioner requests reconsideration of the previous adverse decision on the petition filed under 37 CFR 1.378(b) and submits that as methods of paying and tracking the maintenance fees by Jenkens & Gilchrist, LLC worked in the past, the expiry of the instant patent was unavoidable.

Petitioner has not met the burden of proving to the satisfaction of the director that the delay was unavoidable within the meaning of 35 U.S.C. § 41(c)(1) and 37 CFR 1.378(C).

A late maintenance fee payment is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e., "unavoidable" delay. Ray v. Lehman, 55 F.3d 606, 608 09, 34USPQ2d 1786, 1787 (Fed Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word unavoidable... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, the occurrence or a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912) (quoting Ex parte Pratt, 1887 Dec Comm'r Pat. 31, 32 ,, (Comm'r Pat. 1887) see also Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

35 USC § 41(b) 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 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3D 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). That is, adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 USC § 41(c) and 37 CFR 1.378(b)(3) requires a showing that the steps taken by the responsible party to ensure the timely payment of the maintenance fee for this patent. Id.

As the patent holder at the time of expiration, it was incumbent on petitioner to have itself docketed this patent for payment of the maintenance fee in a reliable system as would be employed by a prudent and careful person with respect to his most important business, or to have engaged another for that purpose. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995). Even where another has been relied upon to pay the maintenance fees, such asserted reliance per se does not provide a petitioner with a showing of unavoidable delay within the meaning of 37 CFR § 1.378(b) and 35 USC § 41(c). Id. Rather, such reliance merely shifts the focus of the inquiry from the petitioner to whether the obligated party acted reasonably and prudently. Id. Nevertheless, a petitioner is bound by any errors that may have been committed by the obligated party. Id.

The instant petition asserts that prior to the Merger of Maxim Integrated Products (hereafter "Maxim") and the Dallas Semiconductor Corporation (hereafter, "Dallas") each had a working docketing system in place for timely paying maintenance fees. Steven R. Greenfield worked for Jenkins & Gilchrist (herein after Jenkins) in Dallas, Texas between the 1999 and 2005, as a practicing attorney and shareholder in the intellectual property group. During that time Mr. Greenfield states that he was responsible for certain patents and patent applications assigned to Dallas prior to and after the merger, as well as, the patent applications assigned to Maxim.

Jenkins & Gilchrist, prior to the merger, was responsible for and obligated to: manage, docket and track patent maintenance fee due dates and payments for all Dallas/Maxim patents managed by Jenkins. Jenkins was also responsible for requesting instructions or an authorization from Dallas and/or Maxim to pay patent maintenance fees for all Dallas/Maxim patents managed by Jenkins.

Mr. Greenfield also states that he was familiar with the Dallas/Maxim maintenance fee payment procedure that was in place for the patents assigned to Dallas/Maxim. To the best of his recollection the maintenance fee payment procedure was as follows"

- a. When the US Patent Issue Notification was received from the USPTO the maintenance due date was docketed into Jenkins' Master Data Docket system.
- b. The Docket system calculated a patent maintenance fee reminder date. A patent maintenance fee reminder date is a date used to remind a Jenkins attorney to contact Dallas/Maxim by letter or e-mail and request instructions or an authorization from Dallas/Maxim to pay the upcoming maintenance fee for the particular patent.
- c. The patent maintenance fee reminder date was set to remind a Jenkins attorney to send a letter/e-mail to Dallas/Maxim requesting instructions or an authorization to pay the patent maintenance fee about six (6) months prior to the 3 ½ year maintenance fee due date (without surcharge).
- d. After an initial letter/e-mail was sent Dallas/Maxim requesting authorization to pay a maintenance fee, the docketing system was updated to look for an

authorization or instruction from Dallas/Maxim a preset number of days prior to the maintenance fee due date.

e. Additional reminder letter/emails were sent and sometime phone calls were made by Jenkins attorneys to Dallas/Maxim when timely instructions or a maintenance fee payment was not timely received by Jenkins from Dallas/Maxim.

f. It was understood by Jenkins, Dallas/Maxim that if no authorization to pay the maintenance fee was received by Jenkins from Dallas/Maxim then Jenkins would not pay the US Patent maintenance fee for a particular patent.

Mr. Greenfield further states that upon review of various pertinent maintenance fee related documents from the '740 Patent's "tri-fold", the first patent maintenance fee letter/e-mail from Jenkins requesting authorization to pay the maintenance fee for the '740 patent should have been sent to Dallas/Maxim between May 5, 2001 and May 20, 2001. The merger between Dallas/Maxim occurred April 11, 2001, which was just prior to the time frame when the letter/e-mail requesting authorization to pay the maintenance fee should have been sent by Jenkins. Mr. Greenfield also states that after the merger between Dallas and Maxim, all of the "tri-fold" patents and patent application files affected by the merger had to physically go through Jenkins docketing personnel to have pertinent changes of address, assignments and other information manually entered/docketed into the Docket System. The general rule at Jenkins was that the whole "tri-fold" file rather than just individual documents from a "tri-fold" folder went to docketing personnel for data/docket entry. The general rule was followed so that individual documents were kept with their "tri-fold" files to minimize document misplacement or loss. To the best of Mr. Greenfield's recollection the docket process of "merger affected files took about five (5) to about ten (10) months to complete due at least in part to the ebb flow and continuing activity of the active patent application involved."

Based on the best of Mr. Greenfield's recollection of how Dallas/Maxim patent files were managed at Jenkins and on his review of certain documents from the '740 "Patent tri-fold" the requisite letter/e-mail requesting authorization to pay the '740 maintenance fee, was never sent to Dallas/Maxim. Further based on the facts, it appears that the requisite letter/e-mail was never sent because the '740 "patent tri-fold" file was caught up in and/or misplaced due to the ebb and flow of the many, many Dallas/Maxim physical "tri-fold" files being stored and moved around on file carts through the manual procedure of entering pertinent information and USPTO filing information into the Docket System associated with the then recent merger of Dallas and Maxim."

Upon further review, the petition and associated documents filed October 27, 2010 further support a break down in Jenkins patent maintenance fee payment procedure. Jenkins docketed the '740 Patent's maintenance fee due date, but no letter or email was sent from Jenkins to Dallas (prior to the April 11, 2001 merger date) or to Maxim (after completion of the merger) requesting instructions or an authorization to pay the first patent maintenance fee for the '740 patent which is completely inconsistent with the normal Jenkins patent maintenance fee payment

procedure for Dallas/Maxim. Mr. Greenfield further states that there is no correspondence in the '740 Patent "tri-fold" file from either Dallas or Maxim providing instruction or authorizing payment of the first maintenance fee. Without authorization to pay the maintenance fee from Dallas/Maxim prior to November 5, 2001 due date, Jenkens would not pay the maintenance fee to the USPTO. Based on the recollection of Mr. Greenfield's knowledge of how Dallas/Maxim patent files were managed at Jenkens and on his review of certain documentation from the '740 Patent "tri-fold" file, it is his contention that the delay in the payment of the first maintenance fee was unavoidable, since reasonable care was taken by Jenkens to ensure that the maintenance fee would be paid. Dallas/Maxim did not get a reminder letter from Jenkens to pay the maintenance fee. The patent maintenance fee payment procedure in place at Jenkens broke down and failed in this instance to request instructions or an authorization to pay the maintenance fee from Dallas/Maxim. In August of 2005, Mr. Greenfield states that he left Jenkens and joined the firm of Howison & Arnott, LLP. In March of 2007, Jenkens and & Gilchrist, LLP disbanded and the Maxim patent and patent applications managed by Jenkens were transferred to the law firm of North, Webber & Baugh, LLP located in Palo Alto, California.

As a patent holder at the time of expiration, it was incumbent on the Dallas/Maxim to have itself docketed this patent for the payment of the maintenance fee in a reliable system as would be employed by a prudent and careful person with respect to his most important business, or to have engaged another for that purpose. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995). Here Jenkens & Gilchrist, LLP were obligated by Dallas/Maxim to track and pay the maintenance fee. Even where another has been relied upon to pay the maintenance fess, such asserted reliance *per se* does not provide a petitioner with a showing of unavoidable delay within the meaning of 37 CFR § 1.378(b) and 35 USC § 41(c). *Id.* Rather, such reliance merely shifts the focus of the inquiry from the petitioner to whether the obligated party acted reasonably and prudently. *Id.* Nevertheless, a petitioner is bound by any errors that may have been committed by the obligated party. *Id.* See Futures Technology, Ltd. v. Quigg, 684 F. Supp. 430, 431, 7 USPQ2d 1588 (E.D. Va. 1988)(applicant's diligent inquiry into responsible party's performance under a contract is required to show unavoidable delay); Douglas v. Manbeck, 21 USPQ2d 1697, 1699-1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 64 USPQ2d 1318 (Fed. Cir. 1992)(diligence on the part of the owner is necessary where that owner's putative representative fails to take timely and proper steps with respect to a proceeding before the Patent and Trademark Office; R.R. Donnelley & Sons v. Dickinson, 123 F.Supp.2d 456, 460, 57 USPQ2d 1244 (N.D. Il. 2000)(failure of assignee to exercise diligence for a period of seven years precluded acceptance of the maintenance fee). Acknowledging this, petitioner argues that it was reasonable to rely on the firm of Jenkens & Gilchrist to pay the maintenance fee. However, considering the letter/e-mail should have been sent by Jenkens & Gilchrist requesting authorization or instructions back in May of 2001, assignee did not use the care or diligence that is generally used and observed by prudent and careful persons in relation to their most important business with respect to the payment of the maintenance fee.

DECISION

Petitioner has failed to meet his burden of proving to the satisfaction of the Director the entire delay in submission of the maintenance fee herein was unavoidable within the meaning of 35 U.S.C. § 41(c)(1) and 37 CFR 1.378(b). Accordingly, the maintenance fee will not be accepted, this patent will not be reinstated, and the patent remains expired. The petition is **denied**.

Petitioner is advised, however, that the USPTO is not the forum for resolving a dispute between a patent owner and his representative as to who bore the responsibility for paying a maintenance fee. See Ray, supra.

The USPTO will not further consider this matter. See 37 CFR 1.378(e).

The maintenance fee and surcharge will be refunded in due course to petitioner's credit card.

Telephone inquiries regarding this decision should be directed to April M. Wise at (571) 272-1642.



Anthony Knight
Director
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,817,393 | 1998-10-06 | 08/595,666 | 1996-02-02 | 66480-0042 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Glenn E. Forbis/ | Date (YYYY-MM-DD) | 2010-12-16 |
| Name | Glenn E. Forbis | Registration Number | 40610 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5817393 :
Issue Date: October 6, 1998 :
Application No. 08595666 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: February 2, 1996 :
Attorney Docket No. STA-0209-PUS :

This is a decision on the electronic petition, filed December 16, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 16, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 20 2011

OFFICE OF PETITIONS

**ATTN: MIMI YUEN
GOLDEN BRIDGE TECHNOLOGY INC.
185 ROUTE 36
WEST LONG BRANCH NJ 07764**

| | | |
|------------------------------|---|-------------|
| In re Patent No. 5,764,691 | : | |
| Issue Date: June 9, 1998 | : | |
| Application No. 08/596,037 | : | ON PETITION |
| Filed: February 6, 1996 | : | |
| Attorney Docket No. GBTI04US | : | |

This is a decision on the petition under 37 CFR 1.378(c), filed September 8, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 10, 2010, for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Patent No. 5,764,691

Page 2

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Elmer Yuen
24 James Way
Eatontown, NJ 07724



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. 5739743 :
Issue Date: April 14,1998 :
Application No. 08597498 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: February 5,1996 :
Attorney Docket No. 061094-0024US :

This is a decision on the electronic petition, filed July 14,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 14,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,739,743 | 1998-04-14 | 08/597,498 | 1996-02-05 | 60220-0001 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Ketan S. Vakil, Reg. No. 43,215/ | Date (YYYY-MM-DD) | 2011-07-14 |
| Name | Ketan S. Vakil | Registration Number | 43215 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5806966 | 1998-09-15 | 08597546 | 1996-02-02 | 18549 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /l/ljr/ | Date (YYYY-MM-DD) | 2012-02-01 |
| Name | Lawrence E. Laubscher, Jr. | Registration Number | 28233 |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which 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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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5806966 :
Issue Date: September 15, 1998 :
Application No. 08597546 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: February 2, 1996 :
Attorney Docket No. 18549 :

This is a decision on the electronic petition, filed February 1, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 1, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5759165 | 1998-06-02 | 08597667 | 1996-02-07 | ACIZ-472-101 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Laura Zager/ | Date (YYYY-MM-DD) | 2011-12-02 |
| Name | Laura Zager | Registration Number | 64813 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5759165 :
Issue Date: June 2, 1998 :
Application No. 08597667 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: February 7, 1996 :
Attorney Docket No. E33.12-0097 :

This is a decision on the electronic petition, filed December 2, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 2, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,817,457 | 1998-10-06 | 08/597,774 | 1996-02-07 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|----------------|---------------------|------------|
| Signature | /John P Moran/ | Date (YYYY-MM-DD) | 2011-04-29 |
| Name | John P. Moran | Registration Number | 30906 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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In re Patent No. 5817457 :
Issue Date: October 6, 1998 :
Application No. 08597774 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: February 7, 1996 :
Attorney Docket No. 32141-20001. :

This is a decision on the electronic petition, filed April 29, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 29, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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

**STEFANUS BRANDS
3781 LAVA AVENUE
MONTREAL, QUEBEC H2W 2H8 CA CANADA**

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Stefanus A. BRANDS :
Application No. 08/598,871 :
Patent No. 5,604,805 :
Filed: February 09, 1996 :
Attorney Docket No. 8125-007 :

NOTICE UNDER 37 CFR. 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
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. 5703568 :
Issue Date: December 30, 1997 :
Application No. 08599272 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: February 8, 1996 :
Attorney Docket No. RM-DB6 :

This is a decision on the electronic petition, filed December 7, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 7, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5703568 | 1997-12-30 | 08599272 | 1996-02-08 | RM.DB6 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /benitajrohm/ | Date (YYYY-MM-DD) | 2011-12-07 |
| Name | Benita J. Rohm | Registration Number | 28664 |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.

Best Available Copy



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : *October 9, 2010*

Patent No. : 5796183
Inventor(s) : 08/601268
Issued : August 18, 1998
Title : CAPACITIVE RESPONSIVE ELECTRONIC SWITCHING CIRCUIT

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 Rules 1.322 and 1.323.

With respect to the alleged error concerning the addition of inventors' names; the inventors are printed in accordance with the Declaration and/or ADS submitted at the time of filing the application or the filing of a petition during pendency. Review of the application file does not reveal a petition/amendment that meet the requirement of changing the inventorship. Accordingly, correction is not warranted under 1.322 or 1.323 as filed.

In view of the foregoing, your request is hereby denied.

However, your attention is directed to 37 C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

M. Diggs
Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or 703-756-*1541*

Brooks Kushman, P.C.
1000 Town Center, 22nd Floor
Southfield, Michigan 48075-1238

/arg



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Alexandria, VA 22313-1450
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**BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075**

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Patent No. 5,796,183
Issue Date: August 18, 1998
Application No. 08/601,268
Filed: January 31, 1996

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NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue 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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions



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Commissioner for Patents
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Alexandria, VA 22313-1450
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**BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075**

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Patent No. 5,796,183 :
Issue Date: August 18, 1998 :
Application No. 08/601,268 : **ON PETITION**
Filed: January 31, 1996 :
Attorney Docket No. :

This is a decision on the petition filed September 14, 2010 under 37 CFR 1.323, which is being treated as a request under 37 CFR 1.324 to correct the name of the inventors by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner request that the inventorship of this application be amended by the addition of **JOHN M. WASHELESKI** of Cadillac, Michigan, and **STEPHEN R. W. COOPER**, of Fowlerville, Michigan, based on the Consent Judgment dated September 8 2010 UNDER 35 USC 256.

The petition is dismissed for failure to submit an oath or declaration signed by all the inventors. See 37 CFR 1.63.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-0602. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.


Thurman K. Page
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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**BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075**

MAILED

AUG 25 2011

OFFICE OF PETITIONS

In re Patent No. 5,796,183 :
Issue Date: August 18, 1998 :
Application No. 08/601,268 :
Filed: January 31, 1996 :
Attorney Docket No. :

ON PETITION

This is a decision on the petition filed August 19, 2011 under 37 CFR 1.323, which is being treated as a request under 37 CFR 1.324 to correct the name of the inventors by way of a Certificate of Correction.

The petition is **GRANTED**.

Petitioner request that the inventorship of this application be amended by the addition of **JOHN M. WASHELESKI** of Cadillac, Michigan, and **STEPHEN R. W. COOPER**, of Fowlerville, Michigan, based on the Consent Judgment dated September 8 2010 under 35 USC 256. Petitioner includes with the renewed petition an Oath having the above inventors.

The inventorship of this patent has been amended by the addition of **JOHN M. WASHELESKI and STEPHEN R. W. COOPER**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-0602. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosure: Corrected filing receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY.DOCKET.NO, TOT CLAIMS, IND CLAIMS. Row 1: 08/601,268, 01/31/1996, 2836, 771, NAR0227L, 20, 4

CONFIRMATION NO. 3176

CORRECTED FILING RECEIPT



22045
BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Date Mailed: 08/25/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Applicant(s)

BYRON HOURMAND, HERSEY, MI;
JOHN M. WASHELESKI, Cadillac, MI;
STEPHEN R. W. COOPER, Fowlerville, MI;

Power of Attorney: The patent practitioners associated with Customer Number 22045

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the Patent Prosecution Highway program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 07/24/1996

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 08/601,268

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

CAPACITIVE RESPONSIVE ELECTRONIC SWITCHING CIRCUIT

Preliminary Class

307

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5784402 | 1998-07-21 | 08601429 | 1996-02-12 | A-60626-1/SF |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| 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.



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In re Patent No. 5784402 :
Issue Date: July 21,1998 :
Application No. 08601429 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: February 12,1996 :
Attorney Docket No. A-60626-1/SF :

This is a decision on the electronic petition, filed October 18,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

MAILED

JUN 20 2011

| | | |
|--|---|----------------------------|
| In re Patent No. 5,673,029 | : | OFFICE OF PETITIONS |
| Issue Date: September 30, 1997 | : | |
| Application No. 08/602,011 | : | DECISION ON PETITION |
| Filed: February 15, 1996 | : | UNDER 37 CFR 1.378(c) |
| Attorney Docket No. 32052.8030.US | : | |

This is a decision on the renewed petition under 37 CFR 1.378(c), filed March 7, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on September 30, 2009 for failure to pay the 11½ 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 Monica A. Graves at (571) 272-7253.

The patent file is being forwarded to Files Repository.

Thurman K. Page
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

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OFFICE OF PETITIONS

BRIAN S. STEINBERGER
3990 S TROPICAL TRAIL
MERRITT ISLAND FL 32952

In re Patent No. 5,901,970 :
Issue Date: May 11, 1999 : ON PETITION
Application No.:08/603,034 :
Filed: February 16, 1996 :
Attorney Docket No.:PC-29 :

This is a decision on the petition filed August 22, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5-year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued May 11, 1999. The grace period for paying the 11.5-year maintenance fee expired at midnight May 11, 2011. Therefore, since the petition was first 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 of \$2,055.00 along with the surcharge of \$1640.00 will be charged to deposit account 50-4188. The above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/06/11

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 08606833 Patent No.: 5747380

CofC mailroom date: 09/28/11

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

[Redacted]

Note: Should the changes to claim 9 and 11 be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____

| | | |
|--|--------------------|---------|
| | Approved | |
| | /N. Drew Richards/ | AU 2895 |
| | | |
| | | |

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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5726965 | 1998-03-10 | 08608802 | 1996-02-29 | G016-P11006US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Steven C. Sereboff/ | Date (YYYY-MM-DD) | 2010-12-01 |
| Name | Steven C. Sereboff | Registration Number | 37035 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.
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P.O. Box 1450
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www.uspto.gov

In re Patent No. 5726965 :
Issue Date: March 10,1998 :
Application No. 08608802 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: February 29,1996 :
Attorney Docket No. 73174RLO :

This is a decision on the electronic petition, filed December 1,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 1,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5803234 | 1998-09-08 | 08609195 | 1996-03-01 | PAT 234 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Arman Katiraei/ | Date (YYYY-MM-DD) | 2012-04-17 |
| Name | Arman Katiraei | Registration Number | 63098 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5803234 :
Issue Date: September 8, 1998 :
Application No. 08609195 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 1, 1996 :
Attorney Docket No. 4547 :

This is a decision on the electronic petition, filed April 17, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 17, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

MAILED
SEP 29 2010
OFFICE OF PETITIONS

In re Application of :
Christensen et al. :
Application No. 08/612,661 : **DECISION**
Filed: March 8, 1996 :
Attorney Docket No. ISIS-2169 :
For: Substituted Nucleic Acids Mimics :

The above-identified application has been forwarded to the undersigned for consideration of a petition for patent term extension entitled "Petition under 37 CFR 1.181 Determination of Patent Term Extension" received on February 17, 2010.

Background

Petitioner notes that the above-identified application was filed on March 8, 1996, and allowed on December 18, 2009, but issuance was delayed due to suspensions in prosecution for a potential interference. Petitioner states that the USPTO failed to provide patent term extension for the periods of suspension in the Notice of Allowance. Petitioner notes that the application was filed on March 8, 1996 and is eligible for patent term extension under 35 U.S.C. 154 and 37 CFR 1.701.

Petitioner asserts that the application was delayed for well over five years due to suspension of prosecution related to a potential interference and as such falls within the scope of 1.701(c)(1). Petitioner asserts that the application was suspended for the period from June 5, 2001 and ending on December 18, 2009. Petitioner asserts that the application was delayed for 3,116 days, thus patent owner request a patent term extension of 1,825 days (5 Years), based on the maximum allowable extension.

On March 8, 1996, the above identified application was received by the Office.

On June 5, 2001, a first letter of suspension of action for a potential interference was mailed by the Office.

On October 1, 2002, a second letter of suspension for a potential interference was mailed by the Office.

On December 18, 2009, a Notice of Allowance and Fee(s) Due notice was mailed by the Office.

Applicable Statutes and Regulation

35 U.S.C. 135 Interferences.

(a) Whenever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Director shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office of the claims involved, and the Director may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office. . . .

35 U.S.C. 154. Contents and term of patent (in effect on June 8, 1995)

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

(2) EXTENSION FOR APPELLATE REVIEW.-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

37 CFR 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

- (1) Interference proceedings under 35 U.S.C. 135(a); and/or
- (2) The application being placed under a secrecy order under 35 U.S.C. 181; and/or
- (3) Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(2) as amended by section 532(a) of the Uruguay Round Agreements Act, Public Law 103-465, 108 Stat. 4809, 4983-85 (1994), and a final decision in favor of the applicant under paragraph (c)(3) of this section. A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) Any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and

(2) Any time during the period of appellate review, as determined by the Director, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Director may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

Opinion

The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154. 35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

The above-identified application was filed on September 1, 1998. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.

Petitioner asserts that under 37 CFR 1.701(c)(1); the patent term extension should be 1,825 days (5 years) for the delays due to the suspensions in prosecution due to an interference. In order to implement 35 U.S.C. 154(b) (in effect between June 8, 1995 and May 28, 2000), the Office promulgated 37 CFR 1.701(c)(1), which, consistent with the statute, requires an interference proceeding under 35 U.S.C. 135(a) to be eligible for patent term extension. Although prosecution was twice suspended in the above-identified application, the suspensions were due to

a potential interference either with or involving one or more other applications. The suspensions were not for the reason that the subject application was involved in an interference, or to await the result of an interference proceeding in another application. As a result, the provisions of 37 CFR 1.701(c)(1)(ii) do not apply because this section applies to suspensions by the "Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application," and in this instance there were no such other interference proceedings. Therefore, Petitioner's argument that he is entitled to 1,825 days of patent term extension for the periods of the two suspensions under 37 CFR 1.701(c)(1) is not persuasive. The application is entitled to zero (0) days of patent term extension under 37 CFR 1.701(c)(1)(ii).

The Notice of Allowance and Fee(s) Due mailed on December 18, 2009 improperly stated that the Patent Term Extension is 489 days. The Office electronic records have been corrected to reflect that the patent term extension is 0 days.

The delay in issuance of petitioner's patent is regretted. However, the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b).

Decision

For the reasons stated herein, patent term extension in this case cannot be granted under 35 U.S.C. § 154(b) and 37 CFR §§ 1.181 and 1.701. Therefore, the petition is dismissed.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,607,096 | 1997-03-04 | 08/613,023 | 1996-03-11 | 66935-4462 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael B. Stewart/ | Date (YYYY-MM-DD) | 2010-09-02 |
| Name | Michael B. Stewart | Registration Number | 36018 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5607096 :
Issue Date: March 4,1997 :
Application No. 08613023 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 11,1996 :
Attorney Docket No. NS3107/NSC1P :

This is a decision on the electronic petition, filed September 2,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 2,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEONARD TACHNER, A PROFESSIONAL LAW
CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

MAILED
FEB 15 2011
OFFICE OF PETITIONS

In re Patent No. 5,803,073 :
Issue Date: September 8, 1998 : DECISION ON PETITION
Application No. 08/613,070 :
Filed: March 8, 1996 :
Attorney Docket No. ATOMIC-2 :

This is a decision in response to the petition under 37 CFR 1.378(b), filed December 22, 2010, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The patent issued on September 8, 1998. The maintenance fee could have been paid during the period from September 8, 2005 through March 8, 2006, or with a surcharge during the period from March 9, 2006 through September 8, 2006. Accordingly, this patent expired on September 9, 2006, for failure to timely remit the maintenance fee.

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in § 1.20(i)(1); and
- (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The present petition lacks items (1), (2) and (3).

The USPTO finance record reveals that the Deposit Account contains insufficient funds to charge the \$1,240.00 maintenance fee due at 7.5 years, the \$2,055.00 maintenance fee due at 11.5 years, and the \$700.00 surcharge after expiration. The Office notes that the maintenance fees, as well as the required surcharge, must be paid as a condition for accepting the late maintenance fee on petition.

In view of the above, the Office is unable to treat the present petition on the merits until petitioner submits a new petition under 37 CFR 1.378(b), the payment for the surcharge after expiration (currently \$700.00), the maintenance fees due at 7.5 and 11.5 years, **as well as documentary evidence in support of a showing of unavoidable delay.** Thus, the petition is dismissed. The Office reminds petitioner that the fees must be paid in the amount due on the date the new petition is filed.

Although the Office will not address the petition on its merits, the Office reminds petitioner that 35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995).

That is, an adequate showing that the delay in payment of the maintenance fee at issue was “unavoidable” within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd,

143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987). Moreover, patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. See Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988).

In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See California Medical Prods. v. Tecnol Medical Prods., 921 F. Supp. 1219 (D. Del. 1995). Moreover, the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant, and an 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). Specifically, delay caused by the actions or inactions of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987).

In the present petition, petitioner asserted that over a protracted period beginning in 2005, counsel's office manager, Ms. Foreman, experienced a medical condition that caused her to fail in her office duties which included notifying the patentee of the need to pay the maintenance fees, obtaining the client's authorization to pay the maintenance fee, and proceeding to send the payment to the USPTO. In support of the petition, petitioners provided a statement from patent practitioner Leonard Tachner, office manager Ms. Foreman, and Dr. Samuel A. Albert.

To establish a showing of "unavoidable" delay based upon medical incapacitation, petitioner must demonstrate that the incapacitation was of such a nature and degree as to render the person unable to conduct business (*e.g.*, correspond with the USPTO) during the period when the maintenance fee was due. Such a showing must be supported by a statement(s) from the person's treating physician(s), and such statement(s) must provide the nature and degree of the person's medical condition during the period from when the maintenance was due until the filing of a grantable petition. Namely, petitioner should provide the USPTO with a statement from a treating physician, asserting that from the time the maintenance fee was due until the filing of a grantable petition, the person's medical condition was of such a degree of severity that it prevented her from timely paying the maintenance fee. Additionally, the treating physician must describe the person's medical condition, the degree of incapacitation, and the duration of the medical illness. Lastly, petitioner should submit evidence to show that "but for" the person's medical condition, the maintenance fee would have been timely paid. Without a thorough

explanation or documentary evidence, the Office is left to speculate as to the circumstances that transpired.

The Office cautions petitioner to remove or mark through any personal information in any document submitted to the USPTO that could 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, petitioner should consider deleting such personal information from the documents before submitting them to the USPTO. Petitioner is advised that the patent file is available to the public after the issuance of a patent. However, 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Services Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Correspondence may also be submitted electronically via EFS-Web.

The patent file is being returned to Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.



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
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LEONARD TACHNER
SUITE 295
3990 WESTERLY PLACE
NEWPORT BEACH CA 92660

MAILED

OCT 06 2011

OFFICE OF PETITIONS

In re Patent No. 5,803,073 :
Issue Date: September 8, 1998 : REQUEST FOR INFORMATION
Application No. 08/613,070 :
Filed: March 8, 1996 :
Atty. Dkt. No. ATOMIC-2 :

This letter is in response to the petition under 37 CFR 1.378(e), filed April 18, 2011. The required petition fee of \$400.00 has been charged to the authorized deposit account.

By Petitioner's own admission, the Tachner firm, or persons employed by that firm, have not been truthful with the USPTO. Furthermore, there is a specter of bias in the declaration of Dr. Albert since, at the time of his diagnosis, he was not Janis Foreman's doctor and he was paid to provide his opinion by Mr. Tachner. The record fails to include any evidence corroborating Dr. Albert's diagnosis. Given the circumstances of this case, corroborating evidence for Dr. Albert's diagnosis is required.

It is extremely odd that the people that were closest to Ms. Foreman did not notice that, as stated by Dr. Albert, she exhibited "destabilizing behavior" or that "she lost her sense of reality" or "lost her sense of proportionality." Further, as stated in Mr. Tachner's declaration, it appears that for about two years, Ms. Foreman was failing to bill clients or pay firm obligations even though the performance of these tasks appears to have been her primary duty. Therefore, it is not clear from the record how Mr. Tachner could have failed to recognize Ms. Foreman was failing to properly bill clients and pay firm obligations.

In response to the instant request for information, Petitioner is required to provide a rebuttal to all the assertions set forth in the petition filed July 21, 2010 in U.S. Patent No. 6,205,885.¹ Furthermore, Petitioner must explain why the current explanation provided in this case is any more believable than other explanations previously provided. Petitioner is required to provide corroborating evidence of Ms. Foreman's condition from a source that is independent of Dr. Albert. Additionally, Petitioner must fully discuss how the actions of Ms. Foreman, with regard to the docket, went undetected from early 2005 until January 2011. Further, Petitioner must explain how Ms. Foreman's failure to bill clients and pay firm obligations went undetected from early 2005 until the end of 2007.

Petitioner must submit the requested information within TWO MONTHS of the mailing date of this letter. Extensions of time may not be obtained. No additional fee is due for a response to the instant

¹ A copy of the petition can be accessed using the Office's Public Patent Application Information Retrieval system located at <http://portal.uspto.gov/external/portal/pair>.

request for information. The response to this Requirement for Information should include a cover letter entitled "Response to Request for Information." The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

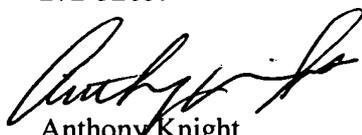
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Attorney Advisor Alesia M. Brown at (571) 272-3205.



Anthony Knight
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Leonard Tachner
Suite 38-E
17961 Sky Park Circle
Irvine, CA 92614

MAILED
MAR 29 2012
OFFICE OF PETITIONS

In re Patent of Toth :
Patent No. 5,803,073 :
Issue Date: September 8, 1998 : Decision on Petition and
Application No. 08/613,070 : Second Request for Information
Filing Date: March 8, 1996 :
Attorney Docket No. Atomic-2 :

The instant paper addresses the response to a prior Request for Information and the petition under 37 C.F.R. § 1.183 filed December 19, 2011.

The Petition under 37 C.F.R. § 1.183

The Office mailed a Request for Information on October 6, 2011, which set a period for reply of two months from the mailing date of the request. A response to the request was not filed until December 19, 2011. Petitioner requests waiver of the two-month time limit. The Office has determined justice supports waiver of the time limit to the extent necessary for the instant response to be considered timely. Therefore, the petition under 37 C.F.R. § 1.183 is **granted**.

Second Request for Information

This paper refers to the patents identified below as follows:

- | | | |
|----|---------------------------|--------------|
| 1. | U.S. Patent No. 5,678,541 | Atomic-1 |
| 2. | U.S. Patent No. 5,803,073 | Atomic-2 |
| 3. | U.S. Patent No. 6,098,924 | Non-Atomic-1 |
| 4. | U.S. Patent No. 6,347,766 | Non-Atomic-2 |
| 5. | U.S. Patent No. 6,463,640 | Atomic-10 |
| 6. | U.S. Patent No. 6,761,163 | Atomic-14 |

Maintenances Fee Paid During 2000-2001

Tachner paid the 3.5 year maintenance fee for Atomic-2 on September 21, 2000. The Office assumes Tachner sent an invoice for the fee to Petitioner.

Tachner paid the 3.5 year maintenance fee for Atomic-1, and sent Petitioner an invoice for the fee, on October 22, 2001.

Maintenance Fees Paid During 2002-2003

The record does not show that Tachner paid any maintenance fees on behalf of Petitioner during 2002 or 2003.

Maintenance and Annual Fees Paid During 2004

The petition refers to two EPO applications. The two applications appear to have issued as European Patent Nos. 0901400 ("E1") and ("E2") during 2003.¹ Tachner paid annual fees for E1 and E2 on April 7, 2004, and April 8, 2004. The Office assumes Tachner sent Petitioner one or more invoices for these fees.

Tachner paid the 3.5 year maintenance fee for Non-Atomic-1 on April 15, 2004. The Office assumes Tachner sent Petitioner an invoice for the fee.

Tachner paid the 7.5 year maintenance fee for Atomic-2 on July 9, 2004. The Office assumes Tachner sent Petitioner an invoice for the fee.

Maintenance and Annual Fees Paid Between January 1, 2005, and November 1, 2010

The Office is unaware of Tachner paying any maintenance fees or annual fees on behalf of Petitioner between January 1, 2005, and November 1, 2010.

E1 "lapsed" during 2005 as a result of the non-payment of annual fees due for E1.

E2 "lapsed" during 2005 as a result of the non-payment of annual fees due for E2.

Atomic-1 expired during 2005 as a result of the non-payment of the 7.5 year maintenance fee.

Non-Atomic-2 expired during 2006 as a result of the non-payment of the 3.5 year maintenance fee.

Atomic-10 expired during 2006 as a result of the non-payment of the 3.5 year maintenance fee.

Non-Atomic-1 expired during 2008 as a result of the non-payment of the 7.5 year maintenance fee.

Atomic-14 expired during 2008 as a result of the non-payment of the 3.5 year maintenance fee. The Office notes, if the 7.5 year maintenance fee had been timely paid for Atomic-1, the 11.5 year fee for the patent would have been due in 2009.

¹ The information in this request pertaining to the European patents is based on information obtained from <http://www.epo.org/searching/free/espacenet.html>.

The Office notes, if the prior maintenance fees for Atomic-2, Non-Atomic-2, and Atomic-10 had been timely paid, a maintenance fee would have been due for each of these patents on dates prior to Petitioner inquiring into the status of the patents.

Discussion

As recognized in the Response, “Even though a patentee may be able to show that its delay was caused by attorney deception, the patentee is still required to show that it acted reasonably and responsibly to keep the patent maintained.”²

Petitioner has not shown diligence in this matter since it appears that petitioner did not inquire into the status of Petitioner’s patents until more than six years and three months after receiving an invoice for a maintenance fee or annual fee from Tachner.³ The Office requests Petitioner provide an explanation for Petitioner’s apparent failure to inquire into the status of the patents on an earlier date.

The Office requests Petitioner supply a copy of invoices pertaining to the annual fees for E1 or E2. The invoices are relevant in so far as the invoices may state the invoices apply to “annual” fees for E1 and E2. In other words, the invoices might include information indicating Petitioner should expect to receive invoices for the fees each year.

In addition to the information requested above, the Office requests Petitioner supply any and all other information Petitioner wishes for the Office to consider in the future when determining if the record demonstrates Petitioner’s diligence in inquiring into the status of Petitioner’s patents was consistent with the level of care generally used by reasonable and prudent individuals when handling their most important business.

Address of Record

The Response is signed by Everett D. Robinson. Mr. Robinson does not appear to be an attorney or agent of record in this case and the address listed in the Response is different than the address of record. A courtesy copy of this decision is being mailed to Mr. Robinson at the address in the Response. However, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Fees

The Response includes a payment of \$4,890. The 3.5 year maintenance fee, the required \$700 surcharge, and the \$400 fee required for the prior request for reconsideration have previously been submitted. As a result, the only fees due with the papers filed December 19, 2011, are the \$400 fee required for the petition under 37 C.F.R. § 1.183 and the \$2,365 11.5 year maintenance

² Response, p. 7.

³ The Office assumes Tachner sent an invoice to Petitioner during July 2004 for the maintenance paid for Atomic-2 on July 7, 2004.

fee. Therefore, the Office has credited \$2,125 (\$4,890 - \$400 - \$2,365) back to the credit card used to pay the \$4,890.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.⁴ Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window.
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

cc: Everett D. Robinson
Echelon IP, LLC
P.O. Box 1047
American Fork, UT 84003

⁴ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 11

ROBERT SANTILLI
9446 SILVERSIDE DR
SOUTH LYON MI 48178

MAILED
DEC 16 2010
OFFICE OF PETITIONS

In re Patent No. 5,679,081
Issue Date: October 21, 1997 :
Application No. 08/614,134 : DECISION ON PETITION
Filed: March 12, 1996 :
Patentee: Robert Santilli :

This is a decision on the petition under 37 CFR 1.378(b), filed October 27, 2010, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) is DISMISSED.

The above-identified patent issued October 21, 1997. Accordingly, the second maintenance fee could have been paid during the period from October 21, 2004 through April 21, 2005 without surcharge, or with a surcharge of \$65 during the period from April 22, 2005 through October 21, 2005. No maintenance fee having been received, the patent expired on October 22, 2005.

37 CFR 1.378(b) provides that:

Any petition to accept an unavoidably delayed payment of a maintenance fee must include:

- (1) The required maintenance fee set forth in 37 CFR 1.20(e) through (g);
- (2) The surcharge set forth in 37 CFR 1.20(i)(1); and

(3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The instant petition does not meet requirement (3) above.

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 USC 133. **This is a very stringent standard.** Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Petitioner states that he was unavoidably delayed in paying the maintenance fee because his "income was not sufficient enough to support [his] household, pay tuition for [his] children, and cover all incidentals." Petitioner states that he took "reasonable care to ensure that the fee would be timely paid." Lastly, petitioner states that he does not recall how or when he became aware of the expiration.

When a petitioner asserts financial hardship, the Office would like to see copies of any bank records, tax returns, and W-2 forms for the period in question.¹ Here, the period in question is from the date the patent expired, October 22, 2005, up until the filing date of the instant petition, October 27, 2010. In addition, the Office requests that petitioner provide an accounting of his expenses throughout the period.

Furthermore, a showing of unavoidable delay must enumerate the steps petitioner took to ensure timely payment of the maintenance fee, and must explain how and when petitioner became aware of the expiration. Here, petitioner has provided no details of the steps he had in place to ensure the timely payment of the maintenance, nor has petitioner explained how and when he became

¹ Petitioner is encouraged to redact any identifying information he would wish to remain confidential - social security number, bank account numbers, etc.

aware of the expiration.

Conclusion:

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the \$400 petition fee set forth in §1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply any and all relevant information and documentation in order to meet his burden of showing unavoidable delay.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the \$3995 submitted for the maintenance fee and the surcharge set forth in §1.20(i) are subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Petitioner may request a refund of the maintenance fee and surcharge by writing to: Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of the last decision rendered should accompany the request for refund. The \$400 fee for requesting reconsideration is not subject to refund.

Further correspondence should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul A. Corrado
8018 Quartz Ave.
Winnetka, CA 91306

MAILED
MAR 01 2012
OFFICE OF PETITIONS

In re Patent of Corrado :
Patent No. 5,731,655 :
Issue Date: March 24, 1998 : Letter
Application No. 08/614,212 :
Filing Date: March 12, 1996 :
For: Spark Plug With 360 Degree :
Firing Tip :

Request for Information

This letter is in response to a petition under 37 C.F.R. § 1.378(b) filed January 23, 2012.

Fees

The petition does not include the required maintenance fee of \$2,365 or the required surcharge of \$700. Relief under 37 C.F.R. § 1.378(b) cannot be granted absent payment of these fees.

As will be discussed, the Office strongly recommends Petitioner submit these fees on or before March 24, 2012.

Facts

The 11.5 year maintenance fee could have been timely paid, with a surcharge, as late as March 24, 2010. The fee was not timely paid and the patent expired on March 25, 2010.

A petition under 37 C.F.R. § 1.378(b) was filed January 23, 2012.

The petition includes income, expense, and asset information with respect to the time period beginning January 2009 and ending April 2010.

The Petition does not Establish Petitioner was Aware the Maintenance Fee was Due

Petitioner has not shown the maintenance fee would have been paid but for an inability to pay the fee. For example, Petitioner has not shown Petitioner knew of the fee and desired to pay the fee, but simply could not afford to pay the fee. Any response to the instant request must

demonstrate Petitioner knew the fee was due or prove Petitioner's lack of knowledge the fee was due was unavoidable.

The Petition Incorrectly Identifies the Date the 11.5 year Maintenance Fee was Due

The petition states the maintenance fee was "due March 2011." However, the last date the fee could have been paid without the submission of a surcharge was March 24, 2010.

Petitioner Inconsistently Identifies the Month of Foreclosure on Petitioner's House

The petition states Petitioner received a notice from his mortgage company seeking foreclosure on his home during early 2009, and indicates he left his property within three days of receiving the notice. However, the financial information attached to the petition strongly implies the foreclosure took place during March 2010. Any response to the instant request must address the prior inconsistency.

The Financial Information Ignores the Time Period From May 2010 until January 2012

Although Petitioner has provided financial information for each month for the time period beginning January 2009 and ending April 2010, Petitioner has not provided financial information for the time period beginning May 2010 and ending January 2012.

A grantable petition under 37 C.F.R. § 1.378(b) must establish the entire delay in the submission of the maintenance fee was unavoidable. In other words, the petition must establish,

1. The failure to timely pay the maintenance fee was unavoidable; and
2. The delay in filing the maintenance fee and a petition to reinstate the patent, beginning on the date the patent expired and ending on the date a petition was filed, was unavoidable.

Any response to the instant request must address the time period beginning May 2010 and ending January 2012.

The Expense Information is Incomplete

Petitioner states the expense information "does not include FOOD, GASOLINE, CHILD EXPENSES, etc." If Petitioner wishes for the Office to take these expenses into consideration when determining if the record demonstrates the entire delay in the submission of the maintenance fee was unavoidable, Petitioner must provide reasonable estimates for these expenses.

The Asset Information is Incomplete

The financial information for January 2009 indicates Petitioner owns rental property. However, the rental property is not listed as an asset.

The financial information states the expense information does not include expenditures for gasoline and indicates \$155 was paid for an "Auto Club" for January 2009 and February 2009. However, the financial information does not identify a car as an asset.

Any response to the instant request must identify all assets owned, in whole or in part, by Petitioner during any portion of the relevant time periods and the value of each of the assets. Petitioner should ensure any asset information provided to the Office is accompanied by relevant liability information.

The Income Information May be Incomplete

Petitioner states child expenses have not been identified and Petitioner has not stated Petitioner is single. Therefore, it appears Petitioner's income *may* not have been the only income received by his household during all relevant time periods.

Any response to the instant request must identify all parties living with Petitioner during the relevant time periods and the income received by each of the parties during the relevant time periods.

If another person living with Petitioner had any income during the relevant time periods, one would expect such a person to have some responsibility for paying expenses incurred by the household. However, Petitioner appears to be asserting he was solely responsible for the home mortgage and numerous other expenses. If another person living with Petitioner had any income during the relevant time periods, any response to the request for reconsideration should fully address the extent to which the other person did, or did not, contribute to the payment of the expenses identified by Petitioner.

Portions of the Budgetary Information Provided by Petitioner are Unclear

Portions of the budgetary information are unclear.

Examples: The budgetary information refers to money paid to "Mortgage World Savings." However, the information does not state whether or not Mortgage World Savings held a mortgage on the primary residence or the rental property.

The budgetary information refers to money paid to "Homecomings Financial Mortgage." However, the information does not state whether or not Homecomings Financial Mortgage held a mortgage on the primary residence or the rental property.

The budgetary information refers to money paid each month to "Home Depot" without any discussion of the reason for paying money to Home Depot each month.

Any response to the instant request should ensure all information provided by Petitioner is clear.

The Information Fails to Address Petitioner's Ability to Sell the Rental Property

Petitioner fails to indicate the extent to which Petitioner could have sold the rental property to obtain money to timely pay the maintenance fee or to reinstate the patent on an earlier date.

Any response to the instant request should discuss the Petitioner's ability to sell the rental property. Such a discussion should explicitly identify the value of the property during all relevant time periods and the debt owed on the property during all relevant time periods.

Petitioner has not Identified the Date Petitioner Learned the Patent had Expired

A grantable petition under 37 C.F.R. § 1.378(b) must identify the date a petitioner learned the patent expired. However, the instant petition fails to identify the date Petitioner learned the instant patent had expired. Any response to the instant request must to identify the date Petitioner learned the instant patent had expired.

Petitioner Should Ensure Petitioner Submits all Information Petitioner
Wishes to be Considered by the Office

Petitioner will be based solely on the administrative record. Therefore, if Petitioner wishes for the Office to take any information into consideration, Petitioner must make the information part of the record. Petitioner should note Petitioner bears the burden of proving the entire delay in the submission of the 11.5 year maintenance fee was unavoidable.

Petitioner's Current Options

- I. Petitioner May File a Response to the Instant Request and Continue to Seek Reinstatement of the Patent under 37 C.F.R. § 1.378(b).

Any response to the instant request must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The response should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.378(b)."

Although the response to the instant request can be timely filed as late as two months from the instant decision, a failure to file the required fees on or before March 24, 2012, will preclude Petitioner from seeking relief under 37 C.F.R. § 1.378(c) in the future if relief cannot be obtained under 37 C.F.R. § 1.378(b). In other words, unless the fees are timely mailed in compliance with 37 C.F.R. §§ 1.8 or 1.10, the Office must *receive* the fees on or before March 24, 2012, if Petitioner wishes to preserve the ability to pursue relief under 37 C.F.R. § 1.378(c) in the future.

- II. Petitioner May File a Petition under 37 C.F.R. § 1.378(c).

Petitioner may wish to consider filing a petition to reinstate the patent based on unintentional expiration under 37 C.F.R. § 1.378(c). A copy of a blank petition form PTO/SB/66 is enclosed for petitioner's convenience. The surcharge for an unintentional petition is \$1,640. Therefore, if

a petition under 37 C.F.R. § 1.378(c) is filed, the petition will need to be accompanied by \$2,365 for the required maintenance fee and \$1,640 for the surcharge. In general, a petition under 37 C.F.R. § 1.378(c) only needs to state the expiration of the patent was "unintentional," whereas a petition under 37 C.F.R. § 1.378(b) must prove that the entire delay in payment of the fee was "unavoidable."

III. Petitioner May Allow the Patent to Remain Expired.

The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter. Therefore, if Petitioner decides not to continue pursuing the reinstatement of the patent, Petitioner may simply choose not to respond to the instant request.

Future Correspondence

Further correspondence with respect to this matter should be addressed as follows:

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.¹ Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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 General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul A. Corrado
8018 Quartz Ave.
Winnetka, CA 91306

MAILED
MAR 19 2012
OFFICE OF PETITIONS

In re Patent of Corrado :
Patent No. 5,731,655 :
Issue Date: March 24, 1998 : Letter
Application No. 08/614,212 :
Filing Date: March 12, 1996 :
For: Spark Plug With 360 Degree :
Firing Tip :

Second Request for Information

This letter is in response to a petition under 37 C.F.R. § 1.378(b) filed January 23, 2012, and supplemented March 1, 2012.

On March 1, 2012, the Office (1) issued a Request for Information on March 1, 2012, in response to the petition filed January 23, 2012, and (2) received papers supplementing the petition. The instant Request for Information responds to the January 23, 2012 petition *and the papers supplementing the petition filed March 1, 2012.*

Fees

Petitioner has not submitted the required surcharge of \$700. Relief under 37 C.F.R. § 1.378(b) cannot be granted absent payment of this fee.

Facts

The 11.5 year maintenance fee could have been timely paid, with a surcharge, as late as March 24, 2010. The fee was not timely paid and the patent expired on March 25, 2010.

A petition under 37 C.F.R. § 1.378(b) was filed January 23, 2012.

The petition includes income, expense, and asset information with respect to the time period beginning January 2009 and ending April 2010.

The papers supplementing the petition include a letter and papers breaking down the expenses incurred between January 2009 and April 2010 by month.

The Petition does not Establish Petitioner was Aware the Maintenance Fee was Due

Petitioner has not shown the maintenance fee would have been paid but for an inability to pay the fee. For example, Petitioner has not shown Petitioner knew of the fee and desired to pay the fee, but simply could not afford to pay the fee. Any response to the instant request must demonstrate Petitioner knew the fee was due or prove Petitioner's lack of knowledge the fee was due was unavoidable.

The Petition Incorrectly Identifies the Date the 11.5 year Maintenance Fee was Due

The petition states the maintenance fee was "due March 2011." However, the last date the fee could have been paid without the submission of a surcharge was March 24, 2010.

Petitioner Inconsistently Identifies the Month of Foreclosure on Petitioner's House

The petition states Petitioner received a notice from his mortgage company seeking foreclosure on his home during early 2009, and indicates he left his property within three days of receiving the notice. The letter filed March 1, 2012, also states Petitioner was evicted from his house in early 2009.

The financial information filed January 23, 2012, and March 1, 2012, strongly implies the foreclosure took place during early 2010, not early 2009. Any response to the instant request must address the prior inconsistency.

The Financial Information Ignores the Time Period From May 2010 until January 2012

Although Petitioner has provided financial information for each month for the time period beginning January 2009 and ending April 2010, Petitioner has not provided financial information for the time period beginning May 2010 and ending January 2012.

A grantable petition under 37 C.F.R. § 1.378(b) must establish the entire delay in the submission of the maintenance fee was unavoidable. In other words, the petition must establish,

1. The failure to timely pay the maintenance fee was unavoidable; and
2. The delay in filing the maintenance fee and a petition to reinstate the patent, beginning on the date the patent expired and ending on the date a petition was filed, was unavoidable.

Any response to the instant request must address the time period beginning May 2010 and ending January 2012.

The Expense Information is Incomplete

Petitioner states the expense information "does not include FOOD, GASOLINE, CHILD EXPENSES, etc." If Petitioner wishes for the Office to take these expenses into consideration when determining if the record demonstrates the entire delay in the submission of the

maintenance fee was unavoidable, Petitioner must provide reasonable estimates for these expenses.

The Asset Information is Incomplete

The lists identifying income and expenses per month states all assets are on the list.

The financial information for January 2009 indicates Petitioner owns rental property. However, the rental property is not listed as an asset.

The financial information indicates \$155 was paid for an "Auto Club" for January 2009 and February 2009. However, the financial information does not identify a car as an asset.

Any response to the instant request must identify all assets owned, in whole or in part, by Petitioner during any portion of the relevant time periods and the value of each of the assets. Petitioner should ensure any asset information provided to the Office is accompanied by relevant liability information.

The Income Information May be Incomplete

Petitioner states child expenses have not been identified and Petitioner has not stated Petitioner is the only member of his household earning any income. Therefore, it appears Petitioner's income *may* not have been the only income received by his household during all relevant time periods.

Any response to the instant request must identify all parties living with Petitioner during the relevant time periods and the income received by each of the parties during the relevant time periods.

If another person living with Petitioner had any income during the relevant time periods, one would expect such a person to have some responsibility for paying expenses incurred by the household. However, Petitioner appears to be asserting he was solely responsible for the home mortgage and numerous other expenses. If another person living with Petitioner had any income during the relevant time periods, any response to the request for reconsideration should *fully* address the extent to which the other person did, or did not, contribute to the payment of the expenses identified by Petitioner.

Portions of the Budgetary Information Provided by Petitioner are Unclear

Portions of the budgetary information are unclear.

Examples: The budgetary information refers to money paid to "Mortgage World Savings." However, the information does not state whether or not Mortgage World Savings held a mortgage on the primary residence or the rental property.

The budgetary information refers to money paid to "Homecomings Financial Mortgage." However, the information does not state whether or not Homecomings Financial Mortgage held a mortgage on the primary residence or the rental property.

The budgetary information refers to money paid each month to "Home Depot" without any discussion of the reason for paying money to Home Depot each month.

Any response to the instant request should ensure all information provided by Petitioner is clear.

The Information Fails to Address Petitioner's Ability to Sell the Rental Property

Petitioner fails to indicate the extent to which Petitioner could have sold the rental property to obtain money to timely pay the maintenance fee or to reinstate the patent on an earlier date.

Any response to the instant request should discuss the Petitioner's ability to sell the rental property. Such a discussion should explicitly identify the value of the property during all relevant time periods and the debt owed on the property during all relevant time periods.

Petitioner has not Identified the Date Petitioner Learned the Patent had Expired

A grantable petition under 37 C.F.R. § 1.378(b) must identify the date a petitioner learned the patent expired. However, the instant petition fails to identify the date Petitioner learned the instant patent had expired. Any response to the instant request must to identify the date Petitioner learned the instant patent had expired.

Petitioner Should Ensure Petitioner Submits All Information Petitioner Wishes to be Considered by the Office

Petitioner will be based solely on the administrative record. Therefore, if Petitioner wishes for the Office to take any information into consideration, Petitioner must make the information part of the record. Petitioner should note Petitioner bears the burden of proving the entire delay in the submission of the 11.5 year maintenance fee was unavoidable.

Petitioner's Current Options

- I. Petitioner May File a Response to the Instant Request and Continue to Seek Reinstatement of the Patent under 37 C.F.R. § 1.378(b).

Any response to the instant request must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The response should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.378(b)."

Although the response to the instant request can be timely filed as late as two months from the instant decision, a failure to file the required fees on or before March 24, 2012, will preclude

Petitioner from seeking relief under 37 C.F.R. § 1.378(c) in the future if relief cannot be obtained under 37 C.F.R. § 1.378(b). In other words, unless the fees are timely mailed in compliance with 37 C.F.R. §§ 1.8 or 1.10, the Office must *receive* the fees on or before March 24, 2012, if Petitioner wishes to preserve the ability to pursue relief under 37 C.F.R. § 1.378(c) in the future.

II. Petitioner May File a Petition under 37 C.F.R. § 1.378(c).

Petitioner may wish to consider filing a petition to reinstate the patent based on unintentional expiration under 37 C.F.R. § 1.378(c). A copy of a blank petition form PTO/SB/66 is enclosed for petitioner's convenience. The surcharge for an unintentional petition is \$1,640. Therefore, if a petition under 37 C.F.R. § 1.378(c) is filed, the petition will need to be accompanied by \$2,365 for the required maintenance fee and \$1,640 for the surcharge. In general, a petition under 37 C.F.R. § 1.378(c) only needs to state the expiration of the patent was "unintentional," whereas a petition under 37 C.F.R. § 1.378(b) must prove that the entire delay in payment of the fee was "unavoidable."

III. Petitioner May Allow the Patent to Remain Expired:

The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter. Therefore, if Petitioner decides not to continue pursuing the reinstatement of the patent, Petitioner may simply choose not to respond to the instant request.

Future Correspondence

Further correspondence with respect to this matter should be addressed as follows:

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Commissioner for Patents
P.O. Box 1450
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Attn: Office of Petitions

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¹ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5826230 | 1998-10-20 | 08615320 | 1996-03-18 | ID 016212 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

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|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /SMG/ | Date (YYYY-MM-DD) | 2012-04-17 |
| Name | Steven M. Gruskin | Registration Number | 36818 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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
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In re Patent No. 5826230 :
Issue Date: October 20,1998 :
Application No. 08615320 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 18,1996 :
Attorney Docket No. MTS-610 :

This is a decision on the electronic petition, filed April 17,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 17,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5664018 | 1997-09-02 | 08615534 | 1996-03-12 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|-------------------|----------------------------|------------|
| Signature | /David H. Judson/ | Date (YYYY-MM-DD) | 2010-09-02 |
| Name | David H. Judson | Registration Number | 30467 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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).
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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In re Patent No. 5664018 :
Issue Date: September 2,1997 :
Application No. 08615534 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 12,1996 :
Attorney Docket No. :

This is a decision on the electronic petition, filed September 2,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 2,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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Leonard Tachner
Suite 38-E
17961 Sky Park Circle
Irvine, CA 92614

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Patent of Garraffa :
Patent No. 5,678,541 :
Issue Date: October 21, 1997 :
Application No. 08/616,223 :
Filing Date: March 5, 1996 :
Attorney Docket No. Atomic-1 :

Decision on Petition

This is a decision on the petition under 37 C.F.R. § 1.378(b), filed December 22, 2010, to reinstate the above-identified patent.

The petition is **DISMISSED**.

Facts

The instant application was filed March 5, 1996.

Attorney Leonard Tachner handled prosecution of the instant application.

The application issued as a patent on October 21, 1997.

The 3.5 year maintenance fee of \$440 and a surcharge of \$65 were timely paid on October 22, 2001.

The 7.5 year maintenance fee could have been paid from October 21, 2004, to April 21, 2005, or with a surcharge from April 22, 2005, to October 21, 2005. The fee was not timely paid. As a result, the patent expired October 22, 2005.

The petition states the patent is owned by Atomic Aquatics. Dean Garraffa is the sole inventor and a principal of Atomic Aquatics.

On November 17, 2010, Garraffa contacted Janis Foreman, Tachner's Office manager, and requested she supply him with a tabular report showing the current status of Petitioner's patents handled by Tachner's firm.

During the creation of the report, Foreman noticed several of Petitioner's patents had expired as a result of non-payment of maintenance fees since early 2005.

Garraffa received the report on or about November 24, 2010. Thereafter, Garraffa promptly requested a meeting with Tachner to discuss the report. The petition states the expired status of the patents shocked Garraffa, as well as another principal of Petitioner.

The petition states, with emphasis added,

The declaration evidence shows that over a protracted period[,] beginning in 2005[,] Ms. Foreman experienced a psychological breakdown or psychotic episode as described by Dr. Albert.... The breakdown of Ms. Foreman caused her to fail in her office duties which included notifying the patentee of the need to pay maintenance fees.... **Only [in the] past few weeks has her strange and unexpected behavior come to light.**

Ms. Foreman has been a loyal and reliable employee of Tachner's office for more than thirty-two years. She did not exhibit any form of overt personality characteristics or behavior which would have led Mr. Tachner to anticipate that she would not have fulfilled her normal office duties as she had done for more than three decades. Based upon Dr. Albert's interview and diagnosis of Ms. Foreman, **it is only now understood that she was overworked and stressed beyond her limit ...** but that she was "programmed" to hide her predicament for fear of losing her position.

Tachner's declaration states,

[Foreman and I] have always maintained clear lines between her responsibilities as an employee and mine as a patent attorney.... Her actions in dealing with clients, the U.S. Patent and Trademark Office and with our foreign associates, must be based on my instructions that she receives by conferring with me. She is not to carry out such actions until and unless she first confers with me. Our office procedure is clear – all substantive incoming communication are to be reviewed by me.

The petition is accompanied by a declaration by Samuel H. Albert, M.D., a practicing psychiatrist. Foreman met with Dr. Albert during late November 2010 at Tachner's request. Dr. Albert's declaration states,

Based upon [the] facts communicated to me, my reading of the Tachner and Foreman statements and my interview with Ms. Foreman, I have formed a preliminary medical opinion as follows:

Ms. Foreman's irrational behavior is a result of her reaction to a temporary but continually increasing workload which became more than she could handle....

[S]he evidently became so busy that she's lost the ability to bill clients in a timely manner and pay the firm's obligations when they were due....

She began feeling a sense of guilt for not being able to properly handle these responsibilities. She did not want to inform Mr. Tachner of these problems.... [S]he spent more time concerned with her problems [than] with solving her problems.

She began to do and say unreasonable and unrealistic things.... She lost any sense of reality.... Her goal became one of maintaining a sense of continuity and stability for Mr. Tachner even by misleading him and making false statements to him and to others. Ms. Foreman was suffering from an acute psychotic breakdown brought on by rising pressures at her most important environment, her workplace where she had succeeded for decades....

I believe Ms. Foreman's illness is amenable to treatment.

The instant petition does not appear to be the only petition filed by Tachner on behalf of Petitioner. Additional petitions include, but are not necessarily limited to:

1. A petition under 37 C.F.R. § 1.378(b) filed for Patent No. 5,803,073 on December 22, 2010,
2. A petition under 37 C.F.R. § 1.378(b) filed for Patent No. 6,761,163 on January 3, 2011,
3. A petition under 37 C.F.R. § 1.378(b) filed for Patent No. 6,463,640 on January 3, 2011,
4. A petition under 37 C.F.R. § 1.137(a) filed for Application No. 29/238,632 on January 12, 2011,
5. A petition under 37 C.F.R. § 1.378(b) filed for Patent No. 6,098,924 on January 24, 2011, and
6. A petition under 37 C.F.R. § 1.378(b) filed for Patent No. 6,347,766 on January 24, 2011.

Law

A grantable petition under 37 C.F.R. § 1.378(b) must be accompanied by a showing to the satisfaction of the Director that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable.

In order for a party to show unavoidable delay, the party must show "reasonable care was taken to ensure that the maintenance fee would be promptly paid."¹ The level of "reasonable care" required to be shown is the same as the level of "care or diligence ... generally used and observed by prudent and careful men in relation to their most important business."² When determining if a

¹ 37 C.F.R. § 1.378(b).

² *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). See also *Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was

period of delay has been shown to have been unavoidable, the Office will take "all the facts and circumstances into account" and will decide each petition "on a case-by-case basis."³

35 U.S.C. § 41(c)(1) states, with emphasis added, "The Director may accept the payment of any maintenance fee . . . after the six month grace period if the delay is *shown to the satisfaction of the Director* to have been unavoidable." Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

The Office and Congress have recognized the unavoidable standard can be very difficult to meet. During 1992, Congress considered the difficulty involved in reinstating a patent under the unavoidable. Congressional representatives described the unavoidable standard as inflexible, extremely hard to meet, too stringent and harsh.⁴ Congress did NOT take steps to make the unavoidable standard more flexible, easier to meet, less stringent, or less harsh. Instead, Congress determined that it would allow patent owners the ability to reinstate a patent under an "unintentional" standard as long as the petition was filed within 24 months of the expiration of the patent. Congress chose to continue requiring proof of unavoidable delay for petitions filed after the 24 month time period.

Analysis

The Error That Led to Non-Payment of the 7.5 year Maintenance Fee

The petition argues the 7.5 year fee was not paid as a result of an error by Foreman. However, the petition does not actually identify the error made by Foreman. In view of Petitioner's failure to identify Foreman's error, the Office is unable to conclude Tachner's reliance on Foreman not to make such an error was reasonable and prudent. In other words, the record fails to establish the failure to timely pay the fee was unavoidable.

Causation

The petition fails to prove the 7.5 year maintenance fee would have been paid absent Foreman's medical condition.

unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

³ *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982).

⁴ "[The unavoidable] standard has been found to be extremely hard to meet. Some patent owners have lost their patent rights due to this inflexible standard." 138 CONG. REC. S16613, 16614 (September 30, 1992) (Rep. DeConcini) (emphasis added). "The unavoidable standard has proved to be too stringent in many cases." 138 CONG. REC. H1115 (October 3, 1992) (Rep. Hughes) (emphasis added). "The unavoidable standard is too stringent. Some patent owners have lost their patent rights due to circumstances that do not warrant this harsh result, but that could not be considered 'unavoidable' under current law." 138 CONG. REC. E1688 (June 4, 1992) (extension of remarks of Rep. McCollum) (emphasis added).

The petition asserts Foreman was “overworked and stressed beyond her limits.”

Dr. Albert’s statement indicates:

1. Tachner began continuously increasing Foreman’s workload on an unidentified date;
2. Foreman became overworked and stressed;
3. “[T]he Tachner law firm is a very busy firm and Ms. Foreman has a “heavy workload with many varied and important business responsibilities,” and
4. Foreman was unable “to vent her frustration, the worry, and concern” she felt as she fell further and further behind in her work.

Dr. Albert indicates Foreman eventually suffered an acute psychotic breakdown. However, Dr. Albert does not identify the date, or a specific time-frame during which, Foreman transitioned from being overworked, stressed employee to an employee suffering from an acute psychotic breakdown. In other words, the record fails to prove Foreman’s error, resulting in the expiration of the patent during October 2005, took place during the period of time Foreman was suffering from an acute psychotic breakdown.

Even if Foreman was suffering from an acute psychotic breakdown during the entire period from early 2005 until the date the petition was filed, the record would be insufficient to establish causation. The petition appears to simply assume the error was the result of the medical condition. However, the record implies the error may have well been the result of other factors, such as being overworked and being placed under a heavy workload.

Foreman’s Work Environment

On an unidentified date, Tachner began to continuously increasing Foreman’s workload, As a result of the heavier workload, she became overworked, stressed, and too busy to properly perform her duties.

In general, an inverse relationship exists between quality and an employee’s workload. In other words, the chance of an employee making an error when performing a task increases as the time the employee is allowed to spend on the task decreases. Therefore, a reasonable and prudent employer, treating the supervision of an employee as the employer’s most important business, would not simply assume an employee’s past quality of work would not suffer as the employer continuously increased the employee’s workload. Instead, such an employer would take steps to ensure the employee could adequately handle the new workload without a drop in quality. The record fails to indicate Tachner took any steps to ensure Foreman could adequately handle the new workload without a drop in quality.

If an employer has created a work environment in which employees feel 100% comfortable bringing workload issues to the employer’s attention, the employer might be reasonable in expecting an employee to inform the employer if the employee’s workload begins to impact the quality of the employee’s work. However, the record fails to prove Tachner created such a work environment. For example, the petition states, with emphasis added, “[Foreman] was

overworked and stressed beyond her limit ... [but was] “programmed” to hide her predicament *for fear of losing her position.*”

Tachner’s Continued Reliance on Foreman After the Expiration the Patent

In order for relief to be warranted under 37 C.F.R. § 1.378(b), the record must establish the entire delay in the submission of the fee was unavoidable.

If the expiration of the instant patent been discovered on an earlier date, a petition to reinstate the patent could have been filed on an earlier date. Therefore, the Office must determine if the failure to discover the expiration of the patent on an earlier date was unavoidable.

The petition asserts:

1. Foreman has been a reliable employee for more than thirty-two years;
2. “Only [in the] past few weeks has her strange and unexpected behavior come to light;” and
3. “[I]t is only now understood that she was overworked and stressed beyond her limit.”

Despite the assertions above, the evidence is insufficient to demonstrate Tachner had no reason to suspect Foreman’s past work was unreliable prior to discovering the expiration of the patent during November 2010.

The instant decision will discuss facts involving Patent No. 6,205,885, since such facts demonstrate Tachner had reasons to doubt the reliability of Foreman’s work well before November 2010.

Patent No. 6,205,885 expired as a result of Foreman removing all future maintenance fee due dates for all of a client’s patents from the docketing system. Tachner filed a renewed petition to reinstate the patent under 37 C.F.R. § 1.378(b) on July 31, 2008. Tachner clearly recognized Foreman had made an error. For example, page 2 of the petition stated, with emphasis added,

[The attached Tachner declaration indicates] Ms. Foreman made a *profound clerical error* ... [as a result of] Ms. Foreman’s distraction, or confusion or unusual lack of dependable adherence to client instructions.

Tachner’s declaration filed with the July 31, 2008 petition references concerns Tachner has concerning Foreman’s recent conduct and her current ability to perform her job. The declaration stated,

In retrospect, it seemed strange to me that neither we nor the client received a maintenance fee reminder for the ‘855 patent. Ms. Foreman assured me that we had not received such document.... [I also did not receive the prior decision mailed April 9, 2008.] Ms. Foreman maintained that the April 9 decision letter was not received by our office....⁵

⁵ Paragraph 5.

I've not previously had reason to doubt [Foreman's] work or question her actions....⁶

I am taking action immediately to reduce Ms. Foreman's duties in the office.⁷

In view of the prior facts, Tachner appears to have had reasons to doubt Foreman's reliability *at least* as early as July 31, 2008, which was almost 28 months before he discovered the expiration of the instant patent. Despite the existence of such reasons, the record fails to indicate Tachner took any steps to determine the identity of any other patents which may have expired as a result of error(s) by Foreman. The record fails to indicate Tachner would not have learned of the expiration of the instant patent on an earlier date if such steps had been taken. Therefore, the showing of record is insufficient to prove the *entire* delay in the submission of the 7.5 year maintenance fee was unavoidable.

Any request for reconsideration should discuss the extent to which Tachner was, or was not, reasonable in failing to take steps after July 31, 2008, to identify patents which may have unintentionally expired as a result of an error by Foreman.

Any request for reconsideration should clearly identify *all* applications in which Tachner filed a petition under 37 C.F.R. § 1.137 between October 1, 2004, and February 1, 2011. The request should also identify and fully discuss any errors by Foreman and/or Tachner, which contributed to the abandonment of each application.

Any request for reconsideration should clearly identify all patents in which Tachner filed a petition under 37 C.F.R. § 1.378 between October 1, 2004, and February 1, 2011. The request should also identify and fully discuss any errors by Foreman and/or Tachner, which contributed to the expiration of the patent.

Any request for reconsideration should clearly identify all patents, that Tachner is aware of, where a party other than Tachner filed a petition under 37 C.F.R. § 1.378(b) between October 1, 2004, and February 1, 2011, asserting Tachner, Foreman, or Tachner's firm made an error which contributed to the expiration of the patent.

Foreman's Authority to Take Various Actions

The Office is concerned statements in the instant petition involving Foreman's authority, or lack of authority, to take various actions. Information provided with petitions filed in Patent No. 6,205,885, appears to indicate Foreman was allowed to take actions in response to instructions from clients without first discussing the matter with Foreman. However, Tachner's declaration in this case states,

[Foreman and I] have always maintained clear lines between her responsibilities as an employee and mine as a patent attorney.... Her actions in dealing with clients, the U.S.

⁶ Paragraph 7.

⁷ Paragraph 9.

Patent and Trademark Office and with our foreign associates, must be based on my instructions that she receives by conferring with me. She is not to carry out such actions until and unless she first confers with me. Our office procedure is clear – all substantive incoming communication are to be reviewed by me.

Any request for reconsideration should *fully* discuss the extent to which Foreman was, or was not, permitted to take actions involving the payment of maintenance fees without first discussing the matter with Tachner.

In view of the prior discussion, the showing of record is not sufficient to establish that the entire delay was unavoidable within the meaning of 37 C.F.R. § 1.378(b).

The Address of Record

The address on the petition is different than the address of record. As a courtesy, the Office is mailing the instant decision to the address on the petition. However, future communications will be mailed solely to the current address of record absent the filing of a request to change the address of record.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision and include a non-refundable petition fee of \$400. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled “Renewed Petition under 37 CFR 1.378(b).” This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

After a decision on the petition for reconsideration is issued, no further reconsideration or review of the matter will be undertaken by the Director. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner’s decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must **prove** that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to “show” that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Since the petition is dismissed, petitioner may request a refund of the maintenance fee and surcharge. Petitioner is reminded that if a request for reconsideration is later filed along with the \$400 fee, the \$400 will not be refunded. A request for a refund should be sent to: Mail Stop 16,

Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.⁸ Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

⁸ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Leonard Tachner
Suite 38-E
17961 Sky Park Circle
Irvine, CA 92614

MAILED

OCT 06 2011

OFFICE OF PETITIONS

| | | |
|------------------------------|---|-------------------------|
| In re Patent of Garraffa | : | |
| Patent No. 5,678,541 | : | |
| Issue Date: October 21, 1997 | : | Request for Information |
| Application No. 08/616,223 | : | |
| Filing Date: March 5, 1996 | : | |
| Attorney Docket No. Atomic-1 | : | |

Request for Information

This communication responds to a renewed petition under 37 C.F.R. § 1.378(b) filed April 22, 2011.

By Petitioner’s own admission, the Tachner firm, or persons employed by that firm, have not been truthful with the USPTO. Furthermore, there is a specter of bias in the declaration of Dr. Albert since, at the time of his diagnosis, he was not Janis Foreman’s doctor and he was paid to provide his opinion by Mr. Tachner. The record fails to include any evidence corroborating Dr. Albert’s diagnosis. Given the circumstances of this case, corroborating evidence for Dr. Albert’s diagnosis is required. It is extremely odd that the people that were closest to Ms. Foreman did not notice that, as stated by Dr. Albert, she exhibited “destabilizing behavior” or that “she lost her sense of reality” or “lost her sense of proportionality.” Further, as stated in Mr. Tachner’s declaration, it appears that for about two years, Ms. Foreman was failing to bill clients or pay firm obligations even though the performance of these tasks appears to have been her primary duty. Therefore, it is not clear from the record how Mr. Tachner could have failed to recognize Ms. Foreman was failing to properly bill clients and pay firm obligations.

In response to the instant request for information, Petitioner is required to provide a rebuttal to all the assertions set forth in the petition filed July 21, 2010 in U.S. Patent No. 6,205,885.¹ Furthermore, Petitioner must explain why the current explanation provided in this case is any more believable than other explanations previously provided. Petitioner is required to provide corroborating evidence of Ms. Foreman’s condition from a source that is independent of Dr. Albert. Additionally, Petitioner must fully discuss how the actions of Ms. Foreman, with regard

¹ A copy of the petition can be accessed using the Office’s Public Patent Application Information Retrieval system located at <http://portal.uspto.gov/external/portal/pair>.

to the docket, went undetected from early 2005 until January 2011. Further, Petitioner must explain how Ms. Foreman's failure to bill clients and pay firm obligations went undetected from early 2005 until the end of 2007.

Petitioner must submit the requested information within TWO MONTHS of the mailing date of this letter. Extensions of time may not be obtained. No additional fee is due for a response to the instant request for information. The response to this Requirement for Information should include a cover letter entitled "Response to Request for Information." The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Anthony Knight
Director
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

Leonard Tachner
Suite 38-E
17961 Sky Park Circle
Irvine, CA 92614

MAILED
FEB 29 2012

OFFICE OF PETITIONS

In re Patent of Garrafa :
Patent No. 5,678,541 :
Issue Date: October 21, 1997 : Decision on Petition and
Application No. 08/616,223 : Second Request for Information
Filing Date: March 5, 1996 :
Attorney Docket No. Atomic-1 :

The instant paper addresses the response to a prior Request for Information and the petition under 37 C.F.R. § 1.183 filed December 19, 2011.

The Petition under 37 C.F.R. § 1.183

The Office mailed a Request for Information on October 6, 2011. The request set a non-extendable period for reply of two months from the mailing date of the request. Petitioner requests waiver of the two-month time limit. The Office has determined justice supports waiver of the time limit and the petition under 37 C.F.R. § 1.183 is hereby **granted**.

Second Request for Information

This paper refers to the patents identified below as follows:

- | | | |
|----|---------------------------|--------------|
| 1. | U.S. Patent No. 5,678,541 | Atomic-1 |
| 2. | U.S. Patent No. 5,803,073 | Atomic-2 |
| 3. | U.S. Patent No. 6,098,924 | Non-Atomic-1 |
| 4. | U.S. Patent No. 6,347,766 | Non-Atomic-2 |
| 5. | U.S. Patent No. 6,463,640 | Atomic-10 |
| 6. | U.S. Patent No. 6,761,163 | Atomic-14 |

Maintenances Fee Paid During 2000-2001

Tachner paid the 3.5 year maintenance fee for Atomic-2 on September 21, 2000. The Office assumes Tachner sent an invoice for the fee to Petitioner.

Tachner paid the 3.5 year maintenance fee for Atomic-1, and sent Petitioner an invoice for the fee, on October 22, 2001.

Maintenance Fees Paid During 2002-2003

The record does not show that Tachner paid any maintenance fees on behalf of Petitioner during 2002 or 2003.

Maintenance and Annual Fees Paid During 2004

The petition refers to two EPO applications. The two applications appear to have issued as European Patent Nos. 0901400 ("E1") and ("E2") during 2003.¹ Tachner paid annual fees for E1 and E2 on April 7, 2004, and April 8, 2004. The Office assumes Tachner sent Petitioner one or more invoices for these fees.

Tachner paid the 3.5 year maintenance fee for Non-Atomic-1 on April 15, 2004. The Office assumes Tachner sent Petitioner an invoice for the fee.

Tachner paid the 7.5 year maintenance fee for Atomic-2 on July 9, 2004. The Office assumes Tachner sent Petitioner an invoice for the fee.

Maintenance and Annual Fees Paid Between January 1, 2005, and November 1, 2010

The Office is unaware of Tachner paying any maintenance fees or annual fees on behalf of Petitioner between January 1, 2005, and November 1, 2010.

E1 "lapsed" during 2005 as a result of the non-payment of annual fees due for E1.

E2 "lapsed" during 2005 as a result of the non-payment of annual fees due for E2.

Atomic-1 expired during 2005 as a result of the non-payment of the 7.5 year maintenance fee.

Non-Atomic-2 expired during 2006 as a result of the non-payment of the 3.5 year maintenance fee.

Atomic-10 expired during 2006 as a result of the non-payment of the 3.5 year maintenance fee.

Non-Atomic-1 expired during 2008 as a result of the non-payment of the 7.5 year maintenance fee.

Atomic-14 expired during 2008 as a result of the non-payment of the 3.5 year maintenance fee. The Office notes, if the 7.5 year maintenance fee had been timely paid for Atomic-1, the 11.5 year fee for the patent would have been due in 2009.

¹ The information in this request pertaining to the European patents is based on information obtained from <http://www.epo.org/searching/free/espacenet.html>.

The Office notes, if the prior maintenance fees for Atomic-2, Non-Atomic-2, and Atomic-10 had been timely paid, a maintenance fee would have been due for each of these patents on dates prior to Petitioner inquiring into the status of the patents.

Discussion

As recognized in the Response, “Even though a patentee may be able to show that its delay was caused by attorney deception, the patentee is still required to show that it acted reasonably and responsibly to keep the patent maintained.”²

Petitioner has not shown diligence in this matter since it appears that petitioner did not inquire into the status of Petitioner’s patents until more than six years and three months after receiving an invoice for a maintenance fee or annual fee from Tachner.³ The Office requests Petitioner provide an explanation for Petitioner’s apparent failure to inquire into the status of the patents on an earlier date.

The Office requests Petitioner supply a copy of invoices pertaining to the annual fees for E1 or E2. The invoices are relevant in so far as the invoices may state the invoices apply to “annual” fees for E1 and E2. In other words, the invoices might include information indicating Petitioner should expect to receive invoices for the fees each year.

In addition to the information requested above, the Office requests Petitioner supply any and all other information Petitioner wishes for the Office to consider in the future when determining if the record demonstrates Petitioner’s diligence in inquiring into the status of Petitioner’s patents was consistent with the level of care generally used by reasonable and prudent individuals when handling their most important business.

Address of Record

The Response is signed by Everett D. Robinson. Mr. Robinson does not appear to be an attorney or agent of record in this case and the address listed in the Response is different than the address of record. A courtesy copy of this decision is being mailed to Mr. Robinson at the address in the Response. However, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Fees

The Response includes a payment of \$4,890. The 3.5 year maintenance fee, the 7.5 year maintenance fee, a \$700 surcharge, and \$400 for the prior request for reconsideration have previously been submitted. As a result, the only fee due with the papers filed December 19, 2011, is the \$400 fee required for the petition under 37 C.F.R. § 1.183. Therefore, the Office has credited \$4,490 (\$4,890 - \$400) back to the credit card used to pay the \$4,890.

² Response, p. 7.

³ The Office assumes Tachner sent an invoice to Petitioner during July 2004 for the maintenance paid for Atomic-2 on July 7, 2004.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.⁴
Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

cc: Everett D. Robinson
Echelon IP, LLC
P.O. Box 1047
American Fork, UT 84003

⁴ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,835,126 | 1998-11-10 | 08/616,562 | 1996-03-15 | JAS189CIPC2 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Joseph A. Sawyer, Jr./ | Date (YYYY-MM-DD) | 2011-02-09 |
| Name | Joseph A. Sawyer, Jr. | Registration Number | 30801 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5835126 :
Issue Date: November 10,1998 :
Application No. 08616562 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 15,1996 :
Attorney Docket No. JAS-189CIPC2 :

This is a decision on the electronic petition, filed February 9,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 9,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5955646 | 1999-09-21 | 08619524 | 1996-07-31 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Todd A. Rathe/ | Date (YYYY-MM-DD) | 2011-10-25 |
| Name | Todd A. Rathe | Registration Number | 38276 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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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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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5955646 :
Issue Date: September 21,1999 :
Application No. 08619524 :DECISION GRANTING PETITION
Filed: July 31,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 076645/0144B :

This is a decision on the electronic petition, filed October 25,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 25,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,784,527 | 1998-07-21 | 08620654 | 1996-03-22 | 0432-OS |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /STEVEN LIN/ | Date (YYYY-MM-DD) | 2010-11-17 |
| Name | Steven Lin | Registration Number | 35250 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.
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In re Patent No. 5784527 :
Issue Date: July 21,1998 :
Application No. 08620654 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 22,1996 :
Attorney Docket No. 0432-VDSK :

This is a decision on the electronic petition, filed November 19,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | | | | | | | | | | | | | | | | | |
|--|-------------------------|--------------------|--------------------------|--------------------------------|--------|--------------------------------|--------|--|--------|--|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5730333 | 1998-03-24 | 08623871 | 1996-03-29 | 15428.337US01 | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input checked="" type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <ul style="list-style-type: none"> <input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> The assignee of record of the entire interest | | | | | | | | | | | | | | | | | | | | |

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|-----------------|---------------------|------------|
| Signature | /Mark T. Skoog/ | Date (YYYY-MM-DD) | 2011-07-26 |
| Name | Mark T. Skoog | Registration Number | 40178 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5730333 :
Issue Date: March 24, 1998 :
Application No. 08623871 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 29, 1996 :
Attorney Docket No. 3012-0100 :

This is a decision on the electronic petition, filed July 27, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 27, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5853056 | 1998-12-29 | 08624438 | 1996-04-01 | 17794/002001 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

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Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
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SURCHARGE

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Jeffrey S. Bergman/ | Date (YYYY-MM-DD) | 2011-02-01 |
| Name | Jeffrey S. Bergman | Registration Number | 45925 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5853056 :
Issue Date: December 29, 1998 :
Application No. 08624438 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 1, 1996 :
Attorney Docket No. ZE593/93001 :

This is a decision on the electronic petition, filed February 1, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 1, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5719838 | 1998-02-17 | 08625604 | 1996-03-29 | G016-P11002US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Steven C. Sereboff/ | Date (YYYY-MM-DD) | 2010-12-01 |
| Name | Steven C. Sereboff | Registration Number | 37035 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when 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.
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P.O. Box 1450
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In re Patent No. 5719838 :
Issue Date: February 17, 1998 :
Application No. 08625604 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 29, 1996 :
Attorney Docket No. 73750JDL :

This is a decision on the electronic petition, filed December 1, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 1, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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IRA J. SCHAEFER, ESQ.
CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

MAILED
APR 01 2011
OFFICE OF PETITIONS

Patent No. 5,842,545 :
Application No. 08/625,620 :
Filed: March 29, 1996 : ON PETITION
Issued: December 1, 1998 :
Attorney Docket No. Columbia 202 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 11, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued December 1, 1998. The last day of the grace period for paying the 11.5-year maintenance fee was December 1, 2010. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

A courtesy copy of this decision is being mailed to the address given on the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: NATHANIEL KRAMETR
KIRSCHSTEIN ISRAEL SCHIFFMILLER & PIERONI
425 FIFTH AVENUE, FIFTH FLOOR
NEW YORK, NY 10016

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5781768 | 1998-07-14 | 08625732 | 1996-03-29 | 18994-0004 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|--------------------|---------------------|------------|
| Signature | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Alexandria, VA 22313-1450
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In re Patent No. 5781768 :
Issue Date: July 14,1998 :
Application No. 08625732 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: March 29,1996 :
Attorney Docket No. 18994-0004 :

This is a decision on the electronic petition, filed October 18,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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COVINGTON & BURLING, LLP
ATTN: PATENT DOCKETING
1201 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004-2401

MAILED
FEB 08 2011
OFFICE OF PETITIONS

In re Application of :
Shuang Ji et al. :
Application No. 08/625,800 :
Patent No. 5,889,943 :
Filed: March 29, 1996 :
Attorney Docket No. **TRNDP024X1** :

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**.

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.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE



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P.O. Box 1450
Alexandria, VA 22313-1450
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**BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037**

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Patent No. 5,697,965
Issued: December 16, 1997
Application No. 08/625,872,
Filed: April 1, 1996
Attorney Docket No. 4426-10

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ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed October 20, 2011, 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 all of the items listed above.

With regards to item (1), the petition must be signed by:

- 1) An attorney or agent of record appointed in compliance with § 1.34(b);
- 2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining

interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or

(5) All of the applicants (§§ 1.42.1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73. (Form PTO/SB/96 enclosed)

Petitioner has submitted a petition under 37 CFR 1.378(c), however, the petition as signed cannot be accepted since Ian Rankin is not authorized to sign the instant petition. Further, petitioner has not established that the person who signed the petition form is authorized to sign on behalf of the patentee(s), assignee, or other party of interest. Consequently, the petition under 37 CFR 1.378(c), cannot be accepted at this time. A renewed petition with the proper signature as listed above is required.

Further, if the instant petition is on the behalf of the assignee, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A 37 CFR 3.73(b) statement is enclosed.

Currently, there is no Statement under 37 CFR 3.73(b) of record in the above-identified patent.

With regards to items (2) and (3), petitioner has failed to submit the required \$2,365.00 small entity eleven and a half year maintenance fee and required \$1,640.00 surcharge fee due to an invalid deposit account number given on the petition. Therefore, as stated above a \$400.00 petition fee is also required for any petition for reconsideration, bring the total to \$4,405.00.

A courtesy copy of this decision is being mailed to the address on the petition; however, all future correspondence will be mailed solely to the address of record.

If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

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: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571)-272-7751.

This patent file is being returned to the Files Repository.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: form PTO/SB/96

cc: Ian Rankin
3 Bailey Court
Green Street
Macclesfield, United Kingdom, SK10 1JQ

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled: _____

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. the assignee of the entire right, title, and interest in;
2. an assignee of less than the entire right, title, and interest in
(The extent (by percentage) of its ownership interest is _____ %); or
3. the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

- A. An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

- B. A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

- Additional documents in the chain of title are listed on a supplemental sheet(s).

- As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature_____
Date_____
Printed or Typed Name_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5697965 :
Issue Date: December 16, 1997 :
Application No. 08625872 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 1, 1996 :
Attorney Docket No. 4426-10 :

This is a decision on the electronic petition, filed November 17, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 17, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5697965 | 1997-12-16 | 08625872 | 1996-04-01 | 137703.00101 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael C. Greenbaum/ | Date (YYYY-MM-DD) | 2011-11-17 |
| Name | Michael C. Greenbaum | Registration Number | 28419 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037**

**MAILED
NOV 29 2011**

OFFICE OF PETITIONS

In re Application of :
Joseph C. Griffin :
Application No. 08/625,872 : **LETTER**
Filed: April 1, 1996 :
Attorney Docket No. 4426-10 :

This letter is the result of a *sua sponte* review of the November 17, 2011 electronically filed petition under 37 CFR 1.378(c) to accept the delayed payment of a maintenance fee in the above-identified application.

A review of USPTO records reveals that the "Petition To Accept Unintentionally Delayed Payment Of Maintenance Fee In An Expired Patent (37 CFR 1.378(c))" and the accompanying "Electronic Patent Application Fee Transmittal" submission filed November 17, 2011 were erroneously accepted. Petitioner has not submitted a renewed petition under 37 CFR 1.378(c), as required in the petition decision mailed November 10, 2011 along with the required \$400.00 reconsideration fee. Consequently, the electronically filed, November 17, 2011, petition under 37 CFR 1.378(c) cannot be accepted and is hereby vacated.

Therefore, petitioner must now submit the required \$400.00 reconsideration fee along with a renewed petition as explained in the November 10, 2011 decision.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE



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**BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037**

**MAILED
JAN 05 2012
OFFICE OF PETITIONS**

In re Patent No. 5,697,965 :
Issued: December 16, 1997 :
Application No. 08/625,872 : **ON PETITION**
Filed: April 1, 1996 :
Attorney Docket No. 4426-10 :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed January 5, 2012 and the Supplemental petition filed November 17, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 17, 2009 for failure to pay the eleven 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 the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
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

MUELLER AND SMITH, LPA
MUELLER-SMITH BUILDING
7700 RIVERS EDGE DRIVE
COLUMBUS OH 43235

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 5,794,910 :
Issue Date: August 18, 1998 :
Application No. 08/626,126 :
Filed: April 1, 1996 :
For: SIGN POST WITH BREAKAWAY SPLICE :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 submitted on March 30, 2011 and resubmitted on March 31, 2011.

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.

There is no indication that the person signing the request was ever given a power of attorney to prosecute the application. If the person signing the request desires to receive future correspondence regarding this patent, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the request, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA, SUITE 300
AKRON, OHIO 44311-1076



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH A. SAWYER JR.
SAWYER & ASSOCIATES
P.O. BOX 51418
PALO ALTO CA 94303

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Patent No. 5,822,018 :
Issue Date: October 13, 1998 :
Application No. 08/626,733 : **ON PETITION**
Filed: April 2, 1996 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.378(c), filed June 9, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 14, 2010, for failure to pay the eleven 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.

As authorized the maintenance fee in the amount of \$4,110 and the surcharge fee of \$1,640 will be charged to petitioner's deposit account.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Troy A. Van Aacken
3871 Lakefield Drive
Atlanta, GA 30345

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,727,887 | 1998-03-17 | 08/629,362 | 1996-04-08 | 105009.62148US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael H. Jacobs/ | Date (YYYY-MM-DD) | 2010-09-27 |
| Name | Michael H. Jacobs | Registration Number | 41870 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5727887 :
Issue Date: March 17, 1998 :
Application No. 08629362 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 8, 1996 :
Attorney Docket No. 105009.62148US :

This is a decision on the electronic petition, filed September 27, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5850185 | 1998-12-15 | 08630424 | 1996-04-03 | 0106597.00118US1 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael A. Diener/ | Date (YYYY-MM-DD) | 2011-11-18 |
| Name | Michael A. Diener | Registration Number | 37122 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.
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In re Patent No. 5850185 :
Issue Date: December 15, 1998 :
Application No. 08630424 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 3, 1996 :
Attorney Docket No. 105.478.119 :

This is a decision on the electronic petition, filed November 18, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 18, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,671,203 | 1997-09-23 | 08/630,533 | 1996-04-10 | 001311 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Mark E. Wallerson/ | Date (YYYY-MM-DD) | 2011-01-06 |
| Name | Mark E. Wallerson | Registration Number | 59043 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Alexandria, VA 22313-1450
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In re Patent No. 5671203 :
Issue Date: September 23,1997 :
Application No. 08630533 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 10,1996 :
Attorney Docket No. Q41347 :

This is a decision on the electronic petition, filed January 6,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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

**UNIVERSITY OF MEDICINE & DENTISTRY
BARBARA V. MAURER
PATENT COUNSEL LEGAL MANAGEMENT
335 GEORGE STREET, SUITE 3200
NEW BRUNSWICK NJ 08901**

**MAILED
JUL 15 2011
OFFICE OF PETITIONS**

In re Patent No. 5,869,048 :
Issue Date: February 9, 1999 :
Application No. 08/630,541 : **ON PETITION**
Filed: April 10, 1996 :
Attorney Docket No. UMD1.0-029C1 :

This is a decision on the petition under 37 CFR 1.378(c), filed June 9, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 9, 2011, for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney 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.

Since the \$810 petition fee submitted on June 9, 2011, is unnecessary, this fee will be credited to petitioner's Deposit Account No. 50-1619.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: JANE MASSEY LICATA
LICATA & TYRRELL P.C.
66 E. MAIN STREET,
MARLTON, NJ 08053

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5725741 | 1998-03-10 | 08631352 | 1996-04-12 | G016-P11003US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|----------------------|----------------------------|------------|
| Signature | /Steven C. Sereboff/ | Date (YYYY-MM-DD) | 2010-12-01 |
| Name | Steven C. Sereboff | Registration Number | 37035 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5725741 :
Issue Date: March 10,1998 :
Application No. 08631352 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 12,1996 :
Attorney Docket No. 73572RLO :

This is a decision on the electronic petition, filed December 1,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 1,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5770293 | 1998-06-23 | 08/631,754 | 1996-04-12 | G016-P11000US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Steven C. Sereboff/ | Date (YYYY-MM-DD) | 2010-12-01 |
| Name | Steven C. Sereboff | Registration Number | 37035 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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.
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P.O. Box 1450
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In re Patent No. 5770293 :
Issue Date: June 23,1998 :
Application No. 08631754 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 12,1996 :
Attorney Docket No. 73643RLO :

This is a decision on the electronic petition, filed December 1,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 1,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED

APR 19 2011

Paper No. 12

In re Patent No. 5,658,759
Issue Date: August 19, 1997
Application No. 08/633,013
Filed: April 16, 1996
Inventor: Christopher R. Bebbington

OFFICE OF PETITIONS

:
:
: DECISION ON PETITION
:
:

This is a decision on the petition for expungement of information, filed September 28, 2010, which is being treated as petitions under 37 CFR 1.182 to invalidate an assignment previously recorded against the above-identified application.

The petition is **dismissed**. This is not a final agency action.

Petitioner indicates an assignment recorded on August 1, 2006 was erroneously filed for the above identified application and requests this assignment record be expunged from the file.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

- (A) the normal corrective procedures outlined in MPEP § 323.01(a) through §323.01(c) will not provide the petitioner with adequate relief; and
- (B) the integrity of the assignment records will not be affected by granting the petition.

In regard to B, petitioner has not sufficiently explained how the removal of a document in its entirety will not affect the assignment records. The removal of a document in its entirety will affect the assignment records. The integrity of the records is recognized as separate from the chain of title, and the USPTO endeavors to maintain a complete history of claimed interests in a given property to permit, among other things, the review of matters like chain of title by a competent authority.

Moreover, petitioner seeks an extraordinary remedy, properly addressed under 37 CFR 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Petitioner should note that the "assignment documents" and "corrective documents" are not limited to assignments, but include any documents affecting title to a patent or application. See MPEP § 313.

Therefore, the rules of practice and the procedures before the USPTO provide an avenue for the requested relief without relying upon extraordinary measures. That is, the chain of title can be clarified in the assignment records through the recording of a corrective document. As a request for the Office to invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR 3.11. However, the recording of a document pursuant to 37 CFR 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

Furthermore, it is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application or patent, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes, particularly as it does not have the means or the authority to resolve such disputes. Indeed, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11F.3d 1573, 1581 n.10, 29 USPQ 2d 1188, 1194 n.10 (Fed. Cir. 1993), *cert. denied*, 114 S. Ct. (1994). Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title as a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2d 1119, 1123 (Fed. Cir. 1997) ("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33

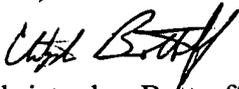
USPQ2d 1361 (Iowa 1994)(patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900)(same).

If petitioner is successful in resolving this dispute, the proper documentation should be promptly submitted to the USPTO for recordation against the patent.

Also, Office records do not indicate that a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, 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.

A petition to expunge assignment documents is properly addressed under 37 CFR 1.182 and a fee of \$400.00 is required. The \$400 petition fee has been charged to petitioner's deposit account.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571)272-6842.



Christopher Bottorff
Supervisor
Office of Petitions

Cc: Womble Carlyle Sandridge & Rice PLLC
P.O. Box 7037
Atlanta Georgia 30357-0037



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 08/633,581 | 04/17/1996 | DEREK L. DAVIS | 042390.P3292 | 8039 |
| 45209 | 7590 | 07/13/2011 | EXAMINER | |
| MISSION/BSTZ BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040 | | | SAYADIAN, HRAYR | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2766 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 07/13/2011 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
www.uspto.gov

MAKATO SAITO
2201-1-417, Omae
Tsumagoi-mura,
Gumma 377-1612
Japan

In re Reissue Patent of:
Derek L. Davis
Patent No. 5,805,706
Filed: April 15, 1996
For: Apparatus and method for re-encrypting data
without unsecured exposure of its non-encrypted format

DECISION ON PETITION UNDER 37 CFR
1.181(a)(3) TO INVOKE SUPERVISORY
AUTHORITY OF THE DIRECTOR

This is a decision on the petition under 37 CFR 1.181(a)(3) filed on October 4, 2010, asking award the inventorship of the above said patent to the petitioner.

The petition is **DISMISSED**.

Relevant File Record History

The petitioner has filed a petition under 37 CFR 1.181(a)(3) filed on October 4, 2010, asking to award the inventorship of Patent No. 5,805,706 (hereafter referred to as '706 patent) to the petitioner.

The '706 patent was involved in interference number 105229, suggested by the petitioner. The petitioner was named the senior party in the interference.

On March 1, 2005, the Board of Patent Appeals and Interferences (BPAI) entered a judgment against the senior party (the petitioner).

REVIEW OF FACTS

The petitioner is asking to obtain the invention in the '706 patent. Seasonable presentation requires a good and sufficient reason as to why the petitioner is entitled to the patent. The reason provided by the petitioner is that interference 105229 is declared, concluding that the petitioner may be treated as the inventor of the '706 patent. However, the declaration of interference does not mean that the interference is judged, and therefore, not enough to

Decision on Petition

conclude that the senior party (the petitioner) is entitled to the invention. More importantly, as indicated in the above, the BPAI entered a judgment against the petitioner. As such, the petitioner is not entitled to the invention.

The petitioner further states that an unknown LLC (referred by the petitioner as "the Nevada LLC") has taken action pretending to be the real party of interest for the petitioner in the interference. However, the petitioner fails to identify any record with any corresponding date related to any action performed by "the Nevada LLC" on the petitioner's behalf that would affect the '706 patent and associated interference. In fact, none of the BPAI letter to the petitioner is addressed to an LLC in Nevada. Therefore, the statement cannot be verified and provides no sufficient reason to support the petitioner's request.

Petitioner also states that the Junior party of the Interference is not innocent. However, once again, the statement cannot be verified, and provides no sufficient reason to support the petitioner's request.

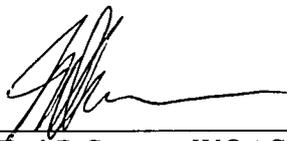
Any further petition on this decision must be filed within TWO MONTHS of the mail date of this decision.

DECISION

For the above-stated reasons, the petition is dismissed.

Petitioner is given a single opportunity to perfect the petition. Any further petition on this decision must be filed within TWO MONTHS of the mail date of this decision.

Any inquiry regarding this decision should be directed to Tod Swann, Quality Assurance Specialist, at (571) 272-3612. A second point of Contact is Kim Huynh at (571)-272-4147.



Tod R Swann, WQAS 2430
Technology Center 2400
Networking, Multiplex, Cable and Information Security



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------|-------------|----------------------|---------------------|------------------|
| 08/633,581 | 04/17/1996 | DEREK L. DAVIS | 042390.P3292 | 8039 |
| 45209 | 7590 | 12/07/2011 | EXAMINER | |
| MISSION/BSTZ | | | SAYADIAN, HRAYR | |
| BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP | | | ART UNIT | PAPER NUMBER |
| 1279 OAKMEAD PARKWAY | | | 2766 | |
| SUNNYVALE, CA 94085-4040 | | | MAIL DATE | DELIVERY MODE |
| | | | 12/07/2011 | 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
WASHINGTON, DC 20231
www.uspto.gov

MAKATO SAITO
2201-1-417, Omae
Tsumagoi-mura,
Gumma 377-1612
Japan

In re Reissue Patent of:
Davis
Patent No. 5805706
Filed: April 17, 1996
For: **Apparatus and Method for Re-Encrypting Data
without Unsecured Exposure of it's Non-Encrypted Format**

DECISION ON PETITION UNDER 37 CFR
1.181(a)(3) TO INVOKE SUPERVISORY
AUTHORITY OF THE DIRECTOR

This is a decision on the petition under 37 CFR 1.181(a)(3) filed on October 6, 2011 asking to the office to consider Inventor's declaration for true inventorship of US Patent 5805706. A first petition was filed on this issue October 4, 2010 which was dismissed July 13, 2011.

The petition is **Denied**.

Relevant File Record History

The petitioner has filed a petition under 37 CFR 1.181(a)(3) filed on, asking to obtain the invention in Patent No. 5805706 (hereafter referred to as '706 patent).

The '706 patent was involved in interference number 105229, suggested by the petitioner. The petitioner was named the senior party in the interference.

On March 1, 2005, the Board of Patent Appeals and Interferences (BPAI) entered a judgment against the senior party (the petitioner) in application 09/097877.

REVIEW OF FACTS

The petitioner is asking to obtain the invention in the '706 patent. As the petitioner lost the interference on March 1, 2005 and as this petition was filed 6 years from the decision, petitioner has failed to meet either the period for response to that decision for

Decision on Petition

reconsideration or the timeliness requirements of petitioning any petitionable issues in the decision. Accordingly, this matter is considered closed and finally determined.

DECISION

For the above-stated reasons, the petition is **denied**.



Tod R Swann, WQAS 2430
Technology Center 2400
Networking, Multiplex, Cable and Information Security

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/30/11

TO SPE OF : ART UNIT 2128

SUBJECT : Request for Certificate of Correction for Appl. No.: 08636024 Patent No.: 7216064

CofC mailroom date: 07/21/11

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

You can fax the Directors/SPE response to 571-273-3421

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

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 RESPONSE FOR CERTIFICATE OF CORRECTION

Samuel L. ...

2128

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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5782781 | 1998-07-21 | 08637990 | 1996-04-25 | Nagaoka |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
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Small Entity

- | | | |
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| <input type="radio"/> | 3 ½ year | (2551) |
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| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|---------------------------|---------------------|------------|
| Signature | /s/John E. Halamka,30177/ | Date (YYYY-MM-DD) | 2010-10-29 |
| Name | John E. Halamka | Registration Number | 30177 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5782781 :
Issue Date: July 21,1998 :
Application No. 08637990 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 25,1996 :
Attorney Docket No. PA1552 :

This is a decision on the electronic petition, filed November 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 14,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



BRACEWELL & PATTERSON, L.L.P.
SOUTH TOWER PENNZOIL PLACE
711 LOUISIANA STREET, SUITE 2900
HOUSTON TX 77002

MAILED

OCT 12 2010

In re Application of
GHOLSON, Mark T.
Application No. 08/638,113
Filed: April 26, 1996
Attorney Docket No. **398779-001**

: **OFFICE OF PETITIONS**
:
: **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 22, 2010.

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.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

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: **GLOBAL CORROSION TECHNOLOGIES**
14225 FERN
HOUSTON TX 77079



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Commissioner for Patents
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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

MAILED
NOV 17 2011
OFFICE OF PETITIONS

In re Patent No. 5,906,863 :
Issue Date: May 25, 1999 :
Application No. 08/638,609 : **NOTICE**
Filed: April 26, 1996 :
Attorney Docket No. 73393 :

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

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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) | | | | | | | | | | | | | | | | |
| 5,910,659 | 1999-06-08 | 08/640,341 | 1996-04-30 | 93-056 | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input checked="" type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input type="radio"/> 11 ½ year | (2553) |
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| <input checked="" type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
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| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <p> <input type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input checked="" type="radio"/> The assignee of record of the entire interest </p> | | | | | | | | | | | | | | | | | | | | |

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| 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 | /Brenda I. thomasson/ | Date (YYYY-MM-DD) | 2011-06-30 |
| Name | Brenda L. Thomasson | | |
| Enter Reel and Frame Number | | Remove | |
| Reel Number | 008216 | Frame Number | 0503 |
| Click ADD for additional Reel Number and Frame Number | | Add | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5910659 :
Issue Date: June 8, 1999 :
Application No. 08640341 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: April 30, 1996 :
Attorney Docket No. 1424-027 :

This is a decision on the electronic petition, filed June 30, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 30, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,912,895 | 1999-06-15 | 08/640,705 | 1996-05-01 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

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SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|-------------------|----------------------------|------------|
| Signature | /ERIC M. DOWLING/ | Date (YYYY-MM-DD) | 2011-10-14 |
| Name | ERIC M. DOWLING | Registration Number | 44094 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5912895 :
Issue Date: June 15,1999 :
Application No. 08640705 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: May 1,1996 :
Attorney Docket No. 56291.000007 :

This is a decision on the electronic petition, filed October 14,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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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BIRCH, STEWART,
KOLASCH & BIRCH LLP
P.O. BOX 747
FALLS CHURCH VA 22040-0747

MAILED

OCT 17 2011

OFFICE OF PETITIONS

| | | |
|-----------------------------------|---|-------------|
| In re Application of | : | |
| Pan et al. | : | |
| Application No. 08/640781 | : | |
| Filing or 371(c) Date: 05/21/1996 | : | ON PETITION |
| Patent No. 5846975 | : | |
| Issue Date: 12/08/1998 | : | |
| Title of Invention: | : | |
| USE OF AMINO HYDROGENATED | : | |
| QUINAZOLINE COMPOUNDS AND | : | |
| DERIVATIVES THEREOF FOR | : | |
| ABSTAINING FROM DRUG | : | |
| DEPENDENCE | : | |

This is a notice regarding request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

Patent No. 5,846,975

Page 2

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: PHILLIPS, EIFION
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022



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**STACY L. TAYLOR
FOLEY & LARDNER
402 WEST BROADWAY, SUITE 2300
SAN DIEGO CA 92101-3542**

**MAILED
APR 06 2011
OFFICE OF PETITIONS**

In re Patent No. 5,821,073 :
Issue Date: October 13, 1998 :
Application No. 08/641,163 : **ON PETITION**
Filed: May 9, 1996 :
Attorney Docket No. 07510/004001 :

This is a decision on the petition under 37 CFR 1.378(c), filed January 21, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 14, 2010, for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bernd W. Sandt
900 Deerfield Court
Midland, MI 48640-2709

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,787,618 | 1998-08-04 | 08641348 | 1996-05-01 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

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 | /Randy James Mullis/ | Date (YYYY-MM-DD) | 2011-05-25 |
| Name | Randy James Mullis | | |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Alexandria, VA 22313-1450
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In re Patent No. 5787618 :
Issue Date: August 4, 1998 :
Application No. 08641348 :DECISION GRANTING PETITION
Filed: May 1, 1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. MULL-0496-FG :

This is a decision on the electronic petition, filed May 26, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 26, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,693,892 | 1997-12-02 | 08/641,615 | 1996-05-01 | 19790/09026 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Robert H. McWilliams, Jr./ | Date (YYYY-MM-DD) | 2011-11-29 |
| Name | Robert H. McWilliams, Jr. | Registration Number | 66617 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which 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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Alexandria, VA 22313-1450
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In re Patent No. 5693892 :
Issue Date: December 2, 1997 :
Application No. 08641615 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: May 1, 1996 :
Attorney Docket No. 96-P-16598 :

This is a decision on the electronic petition, filed November 29, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 29, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5708212 | 1998-01-13 | 08641616 | 1996-05-01 | 19790/09025 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Craig N. Killen/ | Date (YYYY-MM-DD) | 2011-12-08 |
| Name | Craig N. Killen | Registration Number | 35218 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5708212 :
Issue Date: January 13,1998 :
Application No. 08641616 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: May 1,1996 :
Attorney Docket No. 96-P-17342 :

This is a decision on the electronic petition, filed December 8,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 8,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5708213 | 1998-01-13 | 08641617 | 1996-05-01 | 19790/09024 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Robert H. McWilliams, Jr./ | Date (YYYY-MM-DD) | 2011-12-06 |
| Name | Robert H. McWilliams, Jr. | Registration Number | 66617 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5708213 :
Issue Date: January 13,1998 :
Application No. 08641617 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: May 1,1996 :
Attorney Docket No. 96-P-17343 :

This is a decision on the electronic petition, filed December 6,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 6,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5827589 | 1998-10-27 | 08642157 | 1996-05-02 | AAS101A |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|------------------|---------------------|------------|
| Signature | /IMW/ | Date (YYYY-MM-DD) | 2011-01-12 |
| Name | IRVING M. WEINER | Registration Number | 22168 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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In re Patent No. 5827589 :
Issue Date: October 27,1998 :
Application No. 08642157 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: May 2,1996 :
Attorney Docket No. ACA-101-A :

This is a decision on the electronic petition, filed January 12,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 12,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 6033654 | 2000-03-07 | 08642246 | 1996-05-02 | 120779-00001 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
 Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
 Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

| NOT Small Entity | | | Small Entity | | |
|-----------------------|-----------|--------|----------------------------------|-----------|--------|
| | Fee | Code | | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) | <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (1553) | <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE
 The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
 The appropriate maintenance fee must be submitted with this petition.

STATEMENT
 THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|------------------|----------------------------|------------|
| Signature | /Joy Mulholland/ | Date (YYYY-MM-DD) | 2012-03-08 |
| Name | Joy Mulholland | Registration Number | 47810 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6033654 :
Issue Date: March 7,2000 :
Application No. 08642246 :DECISION GRANTING PETITION
Filed: May 2,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. A-61127-1-BI :

This is a decision on the electronic petition, filed March 8,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 8,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5769112 | 1998-06-23 | 08642677 | 1996-05-03 | 0072 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

| | | | |
|--|-----------------|-------------------|------------|
| 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 | /Bruno Rendina/ | Date (YYYY-MM-DD) | 2011-02-24 |
| Name | Bruno Rendina | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Alexandria, VA 22313-1450
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In re Patent No. 5769112 :
Issue Date: June 23,1998 :
Application No. 08642677 :DECISION GRANTING PETITION
Filed: May 3,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 0072 :

This is a decision on the electronic petition, filed February 24,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 24,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5743333 | 1998-04-28 | 08642773 | 1996-05-03 | WBI4-08455-US (BAO0689US) |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Keith J. Murphy/ | Date (YYYY-MM-DD) | 2010-08-23 |
| Name | Keith J. Murphy | Registration Number | 33979 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.
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Alexandria, VA 22313-1450
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In re Patent No. 5743333 :
Issue Date: April 28,1998 :
Application No. 08642773 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: May 3,1996 :
Attorney Docket No. BAKER-114/P1 :

This is a decision on the electronic petition, filed August 23,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 23,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5819799 | 1998-10-13 | 08644900 | 1996-05-10 | 7041.P24 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|---------------|----------------------------|------------|
| Signature | /philipjlee/ | Date (YYYY-MM-DD) | 2010-12-03 |
| Name | Philip J. Lee | Registration Number | 32869 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when 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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United States Patent and Trademark Office
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In re Patent No. 5819799 :
Issue Date: October 13, 1998 :
Application No. 08644900 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: May 10, 1996 :
Attorney Docket No. 7041.P24 :

This is a decision on the electronic petition, filed December 3, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 3, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5801197 | 1998-09-01 | 08645149 | 1996-05-13 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Dennis A. Bennett/ | Date (YYYY-MM-DD) | 2010-09-17 |
| Name | Dennis A. Bennett | Registration Number | 34547 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5801197 :
Issue Date: September 1,1998 :
Application No. 08645149 :DECISION GRANTING PETITION
Filed: May 13,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 22903-X-CIP :

This is a decision on the electronic petition, filed September 17,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 17,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES 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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

MAILED

JAN 12 2011

OFFICE OF PETITIONS

In re Patent No. 5,959,242 :
Issue Date: September 28, 1999 : **DECISION ON PETITION**
Application No. 08/645,945 :
Filed: May 14, 1996 :
Attorney Docket No. 3756-344 :

This is a decision in response to the petition under 37 CFR 1.378(b), filed on August 19, 2010, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is **dismissed**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below because the Director will not undertake any further reconsideration or review of the matter after a decision on the petition for reconsideration.

The patent issued on September 28, 1999. The second maintenance fee could have been paid during the period from September 26, 2006 through March 28, 2007 or with a surcharge during the period from March 29, 2007 through September 28, 2007. Accordingly, this patent expired on September 29, 2007, for failure to timely remit the second maintenance fee.

Petitioners stated that they were informed in a letter from Kenyon & Kenyon LLP dated January 18, 2006, patentee's outside counsel, that Kenyon would cease handling the monitoring and payment of the maintenance fees for patentee's patents. Petitioners indicated that Computer Patent Annuities (hereinafter "CPA") indicated in a letter to patentee dated May 12, 2006, that CPA would assume

responsibility for monitoring and payment of the maintenance fee for patentee's patents starting on June 1, 2006. Petitioners stated that the letter indicated that next correspondence from CPA to patentee would be in the form of a renewal notice when the first maintenance fee for one of the patents became due. Petitioners asserted that it was their understanding that all correspondence from CPA would be directed to Daniel V. Haun, VP Engineering and Research of Nammo Talley Inc. (patentee). Petitioners contended that they were unaware of receiving any further correspondence from CPA until an email exchange between Ms. Sallie Winkler, a Service Account Manager for CPA, and Mr. Haun on December 1, 2008. The emails concerned the change of status from a small entity to a large entity, but not regarding payment of the maintenance fee. Petitioners asserted that they were not aware of any missed maintenance fee payments or expiration of any patents until they received a letter from Kenyon & Kenyon on June 29, 2010, accompanied by a copy of the Notice of Patent Expiration.

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

(1) the required maintenance fee set forth in § 1.20(e) through (g);

(2) the surcharge set forth in § 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

This petition lacks requirement (3).

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting 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, 667-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable.” Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his or her obligation to take appropriate steps to ensure the timely payment of such maintenance fees. Additionally, a patentee’s lack of knowledge of the need to pay the maintenance fee does not constitute unavoidable delay. See In re Patent No. 4,409,763, 7 USPQ2d 1798 (Comm’r Pat. 1988), aff’d Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990); aff’d without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991), cert. denied, 60 U.S.L.W. 3520 (January 27, 1992).

Assuming, *arguendo*, that petitioners were justified in relying on CPA to pay the maintenance fee, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 37 CFR 1.378(b) and 35 U.S.C. § 41(c). California Medical Products v. Technol. Med. Prod., 921 F.Supp. 1219, 1259 (D. Del. 1995). Rather, such reliance merely shifts the focus of the inquiry from petitioners to whether CPA acted reasonably and prudently. Nevertheless, petitioners are bound by any errors that may have been committed by CPA. Petitioners are reminded that the United States Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the petitioners, and petitioners are bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, petitioners’ delay caused by the mistakes or negligence of their voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133. Haines v. Quigg, 673 F. Supp. at 317; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978).

The record does not show that petitioners monitored the performance of CPA pursuant to petitioners’ belief that CPA would pay the maintenance fee. Further, petitioners failed to demonstrate that they diligently inquired with CPA or the USPTO into the status of the patent and maintenance fee payment. Petitioners’ inaction does not reflect the due care and diligence exercised by a prudent and careful person with respect to his or her most important business, and as such, does not demonstrate unavoidable delay. Rather, a prudent person would have taken actions to ensure that the services of CPA were timely performed as specified.

Additionally, petitioners did not provide any statements from persons from CPA, who have first-hand knowledge of the details, regarding the circumstances of the delay in payment of the maintenance fee. There is no explanation by CPA as to why the renewal notice was not sent to Mr. Haun. Furthermore, petitioners did not submit records from CPA showing that the maintenance fee due date was entered into a docketing system and that they were tracking the maintenance fee. Any request for

reconsideration should be accompanied by copies of correspondence between CPA and petitioner regarding which party bore the obligation for tracking and paying the maintenance fee. If petitioners can show, by supporting documentation that CPA assumed the obligation, then petitioners must demonstrate that CPA entered the patent in a reliable system for monitoring maintenance fee payments. Petitioners should submit statements from CPA fully explaining the tracking system, the identity and qualifications of any support staff that managed the system and the checks in place to ensure that the maintenance fee was timely paid. Additionally, petitioners should show that it diligently inquired with CPA as to the status of the patent and when the maintenance was due. Lastly, petitioners must provide a thorough explanation by persons with firsthand knowledge of the events, as well as any documentary evidence, as to errors or events that occurred, which prevented the timely payment of the maintenance fee.

In summary, the showing of record is inadequate to establish unavoidable delay. As petitioners have not shown that it exercised the standard of care observed by a reasonable person in the conduct of its most important business, the petition is **dismissed**.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The \$400.00 petition fee for seeking further reconsideration is not refundable. Any request for refund should be in writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioners' request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Services Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Patent No. 5,959,242
Application No. 08/645,945

Page 5

Telephone inquiries 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

SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

MAILED
OCT 11 2011
OFFICE OF PETITIONS

Patent No. 5,810,666 :
Application No. 08/646,501 :
Filed: May 8, 1996 : **ON PETITION**
Issued: September 22, 1998 :
Attorney Docket No. MERO-1675 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 14, 2011, 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** final agency action within the meaning of 5 U.S.C. § 704.

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 none of the above items.

However, the petition must be signed by:

- (1) An attorney or agent of record appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
- (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
- (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
- (5) **All of the applicants (§§ 1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.**

The instant petition was only signed by one of the two listed inventors. Any renewed petition should include the signatures of all inventors.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration must include the lacking

item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. Petitioner may request a refund of the fees submitted on September 14, 2011. Please send all requests for refunds to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

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. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted.

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/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: GEORGE T. MERO
 31 CROSS STREET
 COHOES, NY 12047



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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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM NY 12110

MAILED

DEC 29 2011

OFFICE OF PETITIONS

In re Patent No. 5,810,666 :
Issue Date: September 22, 1998 :
Application No. 08/646,501 : **ON PETITION**
Filed: May 8, 1996 :
Attorney Docket No. MERO-1675 :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed November 30, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 22, 2010 for failure to pay the 11.5-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.

A courtesy copy of this decision is being mailed to the addresses given on the petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc:

GEORGE T. MERO
31 CROSS STREET
COHOES, NY 12047

MICHAEL J. MERO
4 AMITY STREET
COHOES, NY 12047

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,775,039 | 1998-07-07 | 08/646,918 | 1996-05-08 | KCR 9210 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kurt F. James/ | Date (YYYY-MM-DD) | 2010-09-14 |
| Name | Kurt F. James | Registration Number | 33716 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5775039 :
Issue Date: July 7, 1998 :
Application No. 08646918 :DECISION GRANTING PETITION
Filed: May 8, 1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. KCR-9210 :

This is a decision on the electronic petition, filed September 14, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 14, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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RICHARD J. MACOR
2151 NEW VILLAGE ROAD
STEWARTSVILLE NJ 08886

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Patent No 5,823,077
Issue Date: October 20, 1998
Application No. 08/646,954
Filed: May 8, 1996
Attorney Docket No. IDEW056

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ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 6, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 20, 2010, for failure to pay the eleven 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 the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions



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Commissioner for Patents
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S. MICHAEL BENDER
2837 SKIMMER POINT DRIVE SOUTH
GULFPORT, FL 33707

MAILED

OCT 24 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,852,610 :
Issue Date: December 22, 1998 :
Application No. 08/647,829 :
Filed: May 15, 1996 :
Patentee(s) Olajide O. Olaniyan :

This is a decision on the petition under 37 CFR 1.378(c), filed October 7, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: O. Olaniyan
10302 Highboro Way
Lanham, MD 20706



UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL H WARE
8910 - 2ND AVENUE
INGLEWOOD CA 90305

MAILED

NOV 07 2011

In re Patent No. 5,702,356
Issue Date: December 30, 1997
Application No. 08/648,024
Filed: May 17, 1996
Attorney Docket No.

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OFFICE OF PETITIONS
DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.378(c), filed September 21, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 30, 2009 for failure to pay the eleven 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 the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOHNNIE L. HATHMAN**
5020 SHENANDOAH AVE.
LOS ANGELES, CA 90056



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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA, PA 19103-6996

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Patent No. 5,866,201 :
Issue Date: February 2, 1999 :
Application No. 08/650,871 :
Filed: May 20, 1996 :
Patentee(s): David Blue :

NOTICE

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on June 24, 2011.

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**. Therefore, status as a small entity has been removed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226

Andrea Smith
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WHYTE HIRSCHBOECK DUDEK S.C.
INTELLECTUAL PROPERTY DEPARTMENT
P.O. BOX 1379
MADISON WI 53701-1379

MAILED
MAR 02 2012
OFFICE OF PETITIONS

In re Patent No.5,711,976 :
Issue Date: January 27, 1998 :
Application No. 08/651,600 : ON PETITION
Filed: May 22, 1996 :
Attorney Docket No. 870091.90131 :

This is a decision on the petition under 37 CFR 1.378(c), filed December 6, 2011, 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.

The petition is not considered to contain a proper statement of unintentional delay since the party whose signature appears thereon, Mr. George Hall does not appear to be the party responsible for the entire period of delay, i.e., from the date of expiration of the patent until the filing of the

instant petition. The file record does not indicate the time period during which Stainless Steel Fabricating, Inc. was the assignee of record. Also, the application file record does not include a statement under 37 CFR 3.73(b) authorizing Mr. George Hall to sign on behalf of the assignee. The assignment records for the above-identified patent do not indicate Stainless Steel Fabricating, Inc. as the Assignee for the **entire period of delay**. Also, the included statement under 37 CFR 3.73(b) is incomplete in that it does not list the entire chain of title. Therefore, as to the entire delay period all assignees having an ownership must sign the petition, after having properly established an assignee's right to take action by filing an acceptable statement under 37 CFR 3.73(b).

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



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Paper No. 30

The Nath Law Group
112 South West Street
Alexandria, VA 22314

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Reissue Patent No. RE35,857 :
Issued: July 21, 1998 :
Application No. 08/653,064 :
Filed: May 31, 1996 :
Reissue of : US Patent No. 5, 294, 212 :
Issued March 15, 1994 :
Attorney Docket No. 220/138 :

REQUEST FOR

INFORMATION

This is a request for information in response to Response to Request for Information filed March 15, 2010, and the petition under 37 CFR 1.378(e), filed October 26, 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 October 26, 2009.

The original patent issued March 15, 1994. The 11.5 year maintenance fee could have been paid from March 15, 2005, through September 15, 2005, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from September 16, 2005 to March 15, 2006. The maintenance fee was not paid. Accordingly, the patent expired at midnight on March 15, 2006.

Petitioner is required to address the following points:

- In the "Petition to Accept Unavoidably Delayed Payment of Maintenance Fee In Expired Patent under 37 CFR 1.378(b)" filed October 26, 2009, petitioner makes the following statement:

Thereafter, in 2003, after payment of the 8th year maintenance fee, while preparing a routine status report of the client's files, it was noticed that, although there is only one U.S. Patent on the invention, such a report includes particulars of both patents: The parent which had actually already expired (but still appeared in Reinhold's system) and the reissued patent (which was connected to the parent file in Reinhold's docketing system). In order to avoid confusion, the administrator working at the time with the partner handling the client, i.e., Ms. Ena Pugatch, asked Ms. Pugatch if the file of the parent application should indeed remain open in the docketing system or should be closed. Ms. Pugatch after having reviewed the relevant facts, confirmed that, since there was a reissued patent in force and a file for the reissued patent was in place in the docketing system, the file of the parent patent could be closed and these instruction were given to Ms. Gluska.

Excerpt taken from "Petition to Accept Unavoidably Delayed Payment of Maintenance Fee In Expired Patent under 37 CFR 1.378(b)" filed October 26, 2009, pgs. 7-8.

Petitioner is required to clarify the role, if any, Ms. Pugatch had in the failure to pay the maintenance fee. In so doing, petitioner is cautioned to provide an explanation for why Ms. Gluska, given her expertise with annuity management and docketing system, would accept this instruction from Ms. Pugatch without conducting her own review of the matter.

- Its noted that the Ms. Gluska “manually silenced” the renewal reminders in the reissue file. Then in, 2005, Ms. Gluska closed the file of the parent patent assured in the knowledge that renewal dates of the reissued patent would be generated. The renewal reminders were not generated, however, because Ms. Gluska silenced the reminders in the reissue file years earlier. Petitioner is required to explain if the docketing system used had any protections or redundancies to guard against this confluence of events, i.e., does the system generate a warning to advise the user that an action may result in a failure of a reminder to generated. Petitioner should address whether the docketing system cross-references related application or patent matters such that it will inform the user that action taken in one patent matter my have consequences for another.

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/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



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112 South West Street
Alexandria, VA 22314

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MAY 02 2011

OFFICE OF PETITIONS

ON RENEWED PETITION

In re Reissue Patent No. RE35,857 :
Issued: July 21, 1998 :
Application No. 08/653,064 :
Filed: May 31, 1996 :
Reissue of : US Patent No. 5, 294, 212 :
Issued March 15, 1994 :
Attorney Docket No. 220/138 :

This is in response to the "Response to Request for Information" filed December 23, 2010, and a decision on the petition under 37 CFR 1.378(b), filed October 26, 2009, to reinstate the above-cited patent.

The petition is **dismissed**.

The original patent issued March 15, 1994. The 11.5 year maintenance fee could have been paid from March 15, 2005, through September 15, 2005, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from September 16, 2005 to March 15, 2006. The maintenance fee was not paid. Accordingly, the patent expired at midnight on March 15, 2006.

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.378(b).

Opinion

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.¹

¹The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee . . . at any time . . . if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion Rule 36, 937 F.2d 623 (Fed Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d agencies' 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

However, “[t]he question of whether an applicant’s delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account.”² Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.³ The statute requires a “showing” by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to “show” that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.⁴ The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.⁵ Even if the Office were required to provide notice to

ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”))

“The critical phrase ‘unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable’ has remained unchanged since first enacted in 1861.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for “unavoidable” delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm’r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which “requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.” In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm’r Pat 31, 32-33 (1887)).

²Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

³See 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 action, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

⁴Nonawareness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. *BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s 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).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

⁵Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner’s no timely-notice interpretation.” Ray v. Comer, 1994 U.S. Dist. LEXIS 21478, 8-9 (1994), *aff’d on other grounds* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing Rydeen v. Quigg, 748 F. Supp. 900, 905 (1990), Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S.

applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.⁶

A reasonable and prudent person, aware of the existence of maintenance fees, would not rely on maintenance fee reminders or on memory to remind him or her when payments would fall due several years in the future. Instead, such an individual would implement a reliable and trustworthy tracking system to keep track of the relevant dates.⁷ The individual would also take steps to ensure that the patent information was correctly entered into the tracking system.

Application of the unavoidable standard to the present facts

In the instant petition, petitioner argues that the above-cited patent should be reinstated because the delay in paying the 11.5-year maintenance fee was unavoidable due to docketing and clerical errors that occurred in the offices of Reinhold Cohn & Partners, the firm charged with the responsibility of tracking and paying the 11.5-year maintenance fee for the subject patent. Petitioner's asserts that the docketing and clerical errors that resulted in non-payment of the 11.5-year maintenance fee were that of Ms. Ruth Gluska, and employee and renewal administrator at Reinhold & Cohn Partners at the time in question. Petitioner maintains that Ms. Gluska is an otherwise highly trained and reliable employee and that isolated docketing and clerical errors resulted in the unavoidable delay in paying the 11.5-year maintenance fee.

The petitioner's argument and statements have been considered, but are not persuasive as petitioner has not made the "showing" that is required to satisfy the requirements of 37 CFR 1.378(b). Section 2590 of the MPEP indicates that:

837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in Rydeen, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute.'" Id. at 3 (citing Rydeen v. Quigg, 748 F. Supp. at 906, Texaco v. Short, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. See MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. See Rydeen v. Quigg, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

⁶See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

⁷ 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. Ray v. Lehman, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In Ray v. Lehman, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), supra, arguing that it 'creates a burden that goes well beyond what is reasonably prudent.' We disagree, The PTO's regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." Id.

... an error in a docketing system could possibly result in a finding that a delay in payment was unavoidable if it were shown that reasonable care was exercised in designing and operating the system and that the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fee.

Further, Section 711.03(c)(2) provides, in pertinent part that:

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

- (A) the error was the cause of the delay at issue;
- (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
- (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Petitioner's arguments have been considered, but are unavailing as petitioner has not established that an actual clerical error resulted in the non-payment of the maintenance fee. In summary, it is noted that petitioner states that a file in Reinhold Cohn's docketing system was created for the parent application in March 1992. A new file was created for the reissue patent in May 1996 with the indication that the file is a reissue file and renewals are carried out in the parent file. Petitioner notes that a notation was made in the reissue fee that the parent file needed to be closed because it was expired. Petitioner further notes that correct maintenance fee payment dates were correctly entered in the patent file and also in the reissue file. Petitioner then states:

- (d) The head administrator of Reinhold Cohn & Partners renewal department, at time, Ms. Gluska, manually closed the renewal reminders in the reissued file and entered the comment reading "the renewals are done in the parent file." Her assumption was that the correct renewal dates would be generated in the parent file and the actual renewal would occur in the reissued file.

Excerpt taken from "Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in Expired Patent under 37 CFR 1.378(b)", filed October 29, 2009, p. 13.

- (f) Thereafter, in 2003, after payment of 8th year maintenance fee, the staff handling Hydroplan's files, while preparing a routine status of these files asked Partner Ms. Pugatch if the file of the parent application should indeed remain open in the docketing system or should be closed. Ms. Pugatch confirmed that, since there was a reissued patent in force and a file for the reissued patent was in place in the docketing system, the file of the parent patent could be closed and these instructions were given to Ms. Gluska. Ms. Gluska then closed the parent patent filed.

Excerpt taken from "Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in Expired Patent under 37 CFR 1.378(b)", filed October 29, 2009, pg.14.

Petitioner concludes that from these two events, no renewal reminders were generated for the 11.5-year maintenance fee for the reissue patent.

The action of Ms. Gluska to manually silence the reminder dates for the maintenance fee payments in the parent application at the behest of Ms. Pugatch is not considered a clerical error. Ms. Gluska carried out the instruction of Ms. Pugatch, who petitioner indicates is a legal advisor for Reinhold Cohn & Partners. As Ms. Gluska was carrying out the instruction of an apparent superior in the offices of Reinhold Cohn & Partners the silencing of the reminder dates in the parent application was not a clerical mistake. The procedures followed by Ms. Gluska initially, i.e. closing the reissue patent file was correct and in line with Reinhold Cohn & Partners stated practices. This resulted in an accurate printout of the maintenance fee reminder dates for the reissue patent and, had it been left that way, resulted in a timely renewal reminder being generated when it was time to pay the 11.5-year maintenance fee on the reissue patent. It was not until Ms. Pugatch, a legal advisor, Reinhold Cohn & Partners, instructed Ms. Gluska to manually silence the reminders in the parent application that maintenance fee reminders were silenced for the reissue patent. This does not amount to an "unavoidable" clerical error, but a direct action taken in response to explicit instruction from a superior in the offices of Reinhold Cohn & Partners. Petitioner has, therefore, failed to establish that the entire delay in paying the 11.5-year maintenance fee was unavoidable. The petition is dismissed, accordingly.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.⁸ The petition for reconsideration should be titled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration for this decision must be accompanied by a non-refundable petition fee of \$400.00 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. It is, therefore, extremely important that petitioner supply any and all relevant information and documentation with the request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence "to show" that the delay was unavoidable. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

A reasonable and prudent person would not rely on maintenance fee reminders from the Office for two reasons. First, the Office has indicated that such reminders are a mere courtesy and has reserved the right to discontinue such reminders at any time. second, such reminders may be lost in the mail. A reasonable and prudent person, in regard to his most important business would not rely solely on reminders that the Office may or may not send which may or may not be lost in the mail.

⁸No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington, DC 20231. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
 Mail Stop Petitions
 Box 1450
 Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

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

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OFFICE OF PETITIONS

The Nath Law Group
112 South West Street
Alexandria, VA 22314

| | | |
|--|---|-------------|
| In re Reissue Patent No. RE35,857 | : | |
| Issued: July 21, 1998 | : | REQUEST FOR |
| Application No. 08/653,064 | : | |
| Filed: May 31, 1996 | : | |
| Reissue of : US Patent No. 5, 294, 212 | : | INFORMATION |
| Issued March 15, 1994 | : | |
| Attorney Docket No. 220/138 | : | |

This is a request for information in response the petition under 37 CFR 1.378(e), filed July 1, 2011, 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 previously filed petitions.

The original patent issued March 15, 1994. The 11.5 year maintenance fee could have been paid from March 15, 2005, through September 15, 2005, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from September 16, 2005 to March 15, 2006. The maintenance fee was not paid. Accordingly, the patent expired at midnight on March 15, 2006.

Petitioner states that:

...it is clear that a clerical error was indeed made by Ms. Gluska as she (i) changed the docketing systems default "ruling" which was responsible for the error, and (ii) failed to inform Ms. Pugatsch that she had changed the default ruling. Thus, Ms. Pugatsch's instruction to Ms. Gluska to close the parent application would have been proper had Ms. Gluska not incorrectly changed the docketing systems default "ruling". In view thereof, Ms. Pugatsch's error in instructing Ms. Gluska to close the parent file was also a clerical error regardless of the fact that Ms. Pugatsch was acting as a legal advisor and that Ms. Pugatsch is an attorney.

Excerpt taken from statement of Dr. Bossmat Gonen, PhD., filed July 1, 2011, p. 3.

Petitioner is required to address the following point:

- A clerical error can be characterized as unavoidable, but this is only applicable when the actor was an employee such as a docket clerk or a paralegal. When the actor is as a superior and an attorney, the actor is held to a higher standard than one of these aforementioned employees. In such as case, Ms. Pugatsch's instruction to close the parent application cannot be characterized as "unavoidable". Arguably two errors were committed—one by Ms. Gluska and one by Ms. Pugatsch. While Ms. Gluska's error may be established as a clerical error, Ms. Pugatsch's error

cannot. Given the distinction that is drawn between a clerical error committed by a clerical error and an error committed by an employee in a position of authority, petitioner is required to address the question of how Ms. Pugatsch's instruction to close the parent application can be considered unavoidable delay.

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/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5788317 | 1998-08-04 | 08656768 | 1996-06-03 | 96-3743 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Bryan L. Loeffler/ | Date (YYYY-MM-DD) | 2011-03-01 |
| Name | Bryan L. Loeffler | Registration Number | 61810 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5788317 :
Issue Date: August 4, 1998 :
Application No. 08656768 :DECISION GRANTING PETITION
Filed: June 3, 1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 96-3743 :

This is a decision on the electronic petition, filed March 1, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 1, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
Alexandria, VA 22313-1450
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MICHAEL BURTON
18469 ROSELAWN
DETROIT, MI 48221

MAILED

MAY 24 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,873,766 :
Issue Date: February 23, 1999 :
Application No. 08/657,725 :
Filed: May 3, 1996 :
Title of invention: Toy Clapper :

This is a decision on the petition filed March 23, 2011, under 37 CFR 1.377, to accept and record payment of a maintenance fee filed prior to expiration of patent.

The petition under 37 CFR 1.377 is **GRANTED**.

The patent issued February 23, 1999. Accordingly, the third maintenance fee due could have been paid during the period from February 23, 2010 through August 23, 2010 or with a surcharge during the period from August 24, 2010 through February 23, 2011. This patent expired however on February 23, 2011 for failure to timely pay the maintenance fees due.

Petitioner argues that the third maintenance fee was timely submitted on February 23, 2011 authorizing a charge to petitioner's credit card for the payment, however, a Notification of Non Acceptance of Patent Maintenance Fee was received noting that the payment was not accepted because the credit card company declined charges on the credit card provided.

The record (a letter refusing payment by the Office and stating receipt "02/23/2011") evidences that payment was timely tendered by Petitioner and received by the Office. Nonetheless, it appears that the Office failed to accept and credit the fee to the instant patent because the credit card was declined.

Petitioner has adequately demonstrated, with proof from the issuing bank that the credit card balance was sufficient for the charge on both the date the credit card authorization was received through the date the Notice was mailed. No other verifiable reason has been given for why the funds were not applied as authorized.

Accordingly, the maintenance fees in this case are hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Funds in the amount of \$2055 for the third maintenance fee and \$65 for the surcharge have been applied.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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PATENT ADMINISTRATOR
TESTA HURWITZ & THIBEAULT
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Application of : Paper #29
Stuart E. Madnick et al. :
Application No. 08/657,750 :
Patent No. 5,953,716 :
Filed: May 30, 1996 :
Attorney Docket No. MIT-058 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 03, 2011. 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 **NOT ACCEPTED.**

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.

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.

The fee deficiency cannot be accepted because no itemization has been submitted, as required by 37 CFR 1.28(C) (ii) which states:

(2) Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid.

(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 current fee amount for 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.

Inquiries related to this communication should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **DANIEL O.'BRIEN**
INTELLECTUAL PROPERTY MANAGER
MASSACHUSETTS INSTITUTE OF TECHNOLOGY
ONE CAMBRIDGE CENTER, KENDALL SQUARE
ROOM NE18-501
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Paper No. 26

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

MAILED

JUL 06 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,885,823 :
Issue Date: March 23, 1999 :
Application No. 08/658,194 :
Filed: June 4, 1996 :
Attorney Docket No. N0620.001/P0 :

This is a decision on the petition under 37 CFR 1.378(b), filed May 28, 2010, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Commissioner will undertake no further reconsideration or review of the matter.

The patent issued March 23, 1999. The second (7½ year) maintenance fee was due September 23, 2006 and could have been paid from March 23, 2006 through September 23, 2006, or with a surcharge during the period from September 24, 2006 through March 23, 2007. Accordingly, the patent expired at midnight March 23, 2007, for failure to timely submit the first maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

Petitioner asserts that docketing error was the cause of delay in acting to prevent payment of the maintenance fee(s). A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Specifically, petitioner asserts that failure to use the proper Case Number caused the instant patent to be docketed improperly and was the cause of the delay.

An adequate showing requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts, as they know them. Petitioner must supply a thorough explanation of the docketing and call up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed in this instance to provide adequate notice that a reply was due. Petitioner must also supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

In support of the assertion of docketing error as the cause of delay petitioner provides declarations from Mary-Ellen Devlin, Marion Hoss, Sandra J. Moline and James W. Brady, Jr. The declarations set forth the ownership history of the instant patent, how docketing of patents and applications was handled by multiple docketing systems and how the clerical error allegedly occurred.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

As 35 USC § 41(b) 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 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the maintenance fee for this patent. Id.

As the patent holder at the time of expiration, it was incumbent on petitioner to have itself docketed this patent for payment of the maintenance fee in a reliable system as would be

employed by a prudent and careful person with respect to his most important business, or to have engaged another for that purpose. See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995). Even where another has been relied upon to pay the maintenance fees, such asserted reliance per se does not provide a petitioner with a showing of unavoidable delay within the meaning of 37 CFR § 1.378(b) and 35 USC § 41(c). *Id.* Rather, such reliance merely shifts the focus of the inquiry from the petitioner to whether the obligated party acted reasonably and prudently. *Id.* Nevertheless, a petitioner is bound by any errors that may have been committed by the obligated party. *Id.*

However, the record fails to show that adequate steps within the meaning of 37 CFR 1.378(b)(3) were taken by or on behalf of petitioner to schedule or pay the maintenance fee. Petitioner is reminded that 37 CFR 1.378(b)(3) is a validly promulgated regulation, as is the requirement therein for petitioner's showing of the steps taken to pay the fee. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. In the absence of a showing of the steps taken by or on behalf of petitioner, 37 CFR 1.378(b)(3) precludes acceptance of the maintenance fee.

An adequate showing should include (when relevant):

- (1) statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them;
- (2) a thorough explanation of the docketing and call up system in use;
- (3) identification of the type of records kept;
- (4) identification of the persons responsible for the maintenance of the system;
- (5) copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing;
- (6) include an indication as to why the system failed in this instance, and;
- (7) information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The petition fails to provide items (2), (4), (5) and (7) above.

With respect to petitioner's remarks concerning California Medical in regard to the legal standard of showing unavoidable delay, the remarks are not convincing. The facts in California Medical center on the calculating of maintenance fee due dates, not to the data entry of information as to who will pay the maintenance fee.

In regard to item (2), the petition and included declarations make reference to several docketing systems by commercial name, such as Schupo and CPI. However, neither the petition or declarations set forth a thorough **explanation** of the docketing system in use at the time the maintenance fee was due.

In regard to item (4), the petition and declarations fail to specifically identify who was responsible for maintenance of the docketing system(s) relied upon.

In regard to item (5), petitioner has failed to provide any copies of mail ledgers, docket sheets, filewrappers and any other records which would substantiate docketing error. The declaration of Devlin states at paragraph 35 that documentation showing how the ownership information was not appropriately entered cannot be provided because it was company policy to destroy all correspondence one year after the last patent in a family issues.

As to item (7), it is not clear which person or persons were responsible for the actual clerical error. The petition and four declarations set forth many people involved with the handling and docketing of the instant patent. These include:

Mary-Ellen M. Devlin, Executive Director-Executive Counsel
Marion Hoss, Docket Manager
Sandra Moline, Paralegal
James Brady, Attorney
Michael P. Morris, head of patent group
Miriam Phillips, Docket Manager
Dr. Robert P. Raymond

Neither the petition nor the various declarations submitted therewith specifically identify the person or persons who made the actual docketing error which is alleged as the reason for unavoidable late payment of the maintenance fee. Further, the petition does not provide information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The petition includes numerous declarations in support of unavoidable delay of the maintenance fee payment. The petition and declarations raise many questions as set forth below.

In regard to paragraph 27 of the Devlin declaration, who in the BI Patent Department in Ingelheim was the responsible party for ensuring timely payment of the maintenance fee due for the above identified patent?

Further to paragraph 27, why did BI fail to make a check of all cases BIC was responsible for paying maintenance fees on when responsibility for paying the fees was transferred from BIC to BI, especially in view of the fact that BI relied upon ownership information to determine who would pay the maintenance fee and CPI did not have a data entry for ownership?

In regard to paragraph 30 of the Devlin declaration, why would Brady of Dickstein Shapiro LLP send a letter in 2009 about payment or non-payment of a third maintenance fee when Brady and Dickstein were not the responsible party? Especially, since Brady and Dickstein did not forward

previous Noticed of Patent Expiration (see pages 13-14 of the petition). Was Brady the responsible party?

Office records show that the patent is assigned to Nobl Laboratories, Inc. Why were the USPTO assignment records not corrected to show BIVI all rights to the patent?

The first maintenance fee payment was made from the CPI database. Paragraph 18 of the Devlin declaration indicates it was thought the Schupo system mirrored CPI's system. Was this ever confirmed?

When BI became aware that Schupo indicated that Dickstein was to pay the maintenance fee, why did BI fail to inquire if Dickstein had actually paid the maintenance fee? What is BI's process for checking to see that outside counsel pays maintenance fees in a timely manner?

Again, it is unclear as to who was responsible for payment of the maintenance fee. Was it Dickstein as stated on page 9 of the petition or Dennemeyer as stated on page 11 of the petition?

The petition indicates that only the maintenance fee for this patent was not paid and indicates that the 10-0035 case had ownership issues, i.e., the owner of record was not a BI company, however, Nobl is a BI company (see petition, page 6). Why were maintenance fee records made in other 10 cases and not in this one? Why would BI not have Dennemeyer pay this fee as Noble Labs Inc., the assignee in the USPTO records, is wholly owned by BI?

In regard to the declaration of Marion Hoss, is paragraph 5 indicating that Hoss is the responsible party for payment of the maintenance fees? What steps does BI have in place to insure outside parties it believes are responsible for payment for paying fees, pays the fees? Why did Hoss fail to recognize that Nobl was wholly owned by BI? What other Nobl patents did BI own?

Even assuming arguendo that petitioner should not be bound by the mistakes of his representative, the record does not support a finding of unavoidable delay, as petitioner has not shown adequate diligence in this matter. That is, a showing of diligence in matters before the USPTO on the part of the party in interest is essential to support a finding of unavoidable delay herein. See Futures Technology, Ltd. v. Quigg, 684 F. Supp. 430, 431, 7 USPQ2d 1588 (E.D. Va. 1988)(applicant's diligent inquiry into the status of the application is required to show unavoidable delay); Douglas v. Manbeck, 21 USPQ2d 1697, 1699-1700 (E.D. Pa. 1991), aff'd, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (even representation by counsel does not relieve the applicant from his obligation to exercise diligence before the USPTO; applicant's lack of diligence extending two and one half years overcame and superseded any omissions by his duly appointed representative); R.R. Donnelley & Sons v. Dickinson, 123 F.Supp.2d 456, 460, 57 USPQ2d 1244 (N.D. Ill. 2000)(failure of patent owner to exercise diligence for a period of seven years precluded acceptance of the maintenance fee). The delay was not unavoidable, because had patent holder exercised the due care of a reasonably prudent person, petitioner would have been able to act to correct the situation in a more timely fashion. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987); Douglas, supra; Donnelley, supra.

It is pointed out that in view of the inordinate delay in this case, even if petitioner can establish the existence of a clerical error(s) in this case, it would still be necessary to demonstrate why the lack of inventor diligence for a period of over two years should not be fatal to reinstatement. See Donnelley supra. Rather, as also noted in Douglas, supra, and Haines, supra, it would appear that petitioner's lack of diligence would overcome and supersede any delay caused by its representatives.

For the reasons present above, the petition is dismissed.

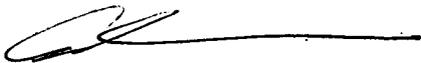
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By Hand: 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 Carl Friedman at (571) 272-6842.



Carl Friedman
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re Patent No. 5,885,823 :
Issue Date: March 23, 1999 :
Application No. 08/658,194 : **DECISION ON PETITION**
Filed: June 4, 1996 :
Attorney Docket No. NO620.001/PO (10- :
0035) :

This is a decision on the petition entitled, "PETITION FOR SUSPENSION OF RULES AND EXTENSION OF TIME UNDER 37 C.F.R. 1.183," filed September 1, 2011. The petition is addressed below.

The petition under 37 CFR 1.183 to waive the two-month time limit for requesting reconsideration under 37 CFR 1.378(e) is **GRANTED**.

The petition under 37 CFR 1.136(b) is **GRANTED**.

Petitioner is given **ONE (1) MONTH** from the mail date of this decision to submit the petition for reconsideration of the decision mailed July 6, 2011. No extension of this 1-month time limit will be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400. The petition for reconsideration should include an exhaustive attempt to provide the lacking items noted in the July 6, 2011 dismissal, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

Petitioner's deposit account has been charged the petition fee of \$400 in association with the petition under 37 CFR 1.183. No fees will be charged for the petition under 37 CFR 1.136(b).

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.



Anthony Knight
Director
Office of Petitions

CC: HERSHKOVITZ & ASSOCIATES, LLC
2845 DUKE STREET
ALEXANDRIA VA 22314



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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

MAILED
NOV 17 2011
OFFICE OF PETITIONS

| | | |
|---|---|-----------------|
| Patent No. 5,885,823 | : | |
| Issue Date: March 23, 1999 | : | |
| Application No. 08/658,194 | : | Requirement For |
| Filing Date: June 4, 1996 | : | Information |
| Attorney Docket No. NO620.001/PO (10-0035) | : | |

Request for Information

A renewed petition under 37 CFR 1.378(b) was filed on October 5, 2011 to accept the delayed payment of a maintenance fee for the above-identified patent.

Petitioner should submit the requested information within **TWO MONTHS** of the mailing date of this letter. Extensions of time may not be obtained. No additional fee is due for a response to the instant Request for Information. The response to this Request for Information should include a cover letter entitled "Response to Request for Information." The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

The decision mailed July 6, 2011 dismissed the petition filed May 28, 2010 and set a statutory period for response of two (2) months from the date of the decision. The decision noted that the showing of record was inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

The renewed petition raises questions that need addressing prior to making a final decision on this petition.

The renewed petition now alleges that the error that caused the failure to meet the deadline to timely file the seven and one-half year maintenance fee was the failure of Marion Hoss to make a proper docket entry. An adequate showing requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts, as they know them. As noted in the renewed petition and the declaration of Dr. Heinz Hammann, Ms. Hoss had recently undergone surgery and had not been capable of returning to work as of the date of

the declaration, September 30, 2011. Since Ms. Hoss is now identified as the one person with direct knowledge of the circumstances surrounding the delay, it is critical to petitioner that a declaration by Ms. Hoss as to the facts surrounding the alleged docket entry error be provided. If Ms. Hoss is still medically incapacitated to provide such a statement, petitioner must state so and give an indication of when she might be capable of providing such a statement.

A statement from the party responsible for annotating the file is required along with information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks. Neither the first petition nor this renewed petition adequately addresses these requirements. There are several declarations provided with the renewed petition that attest to how reliable Ms. Hoss had been in the performance of her duties. However there is no specific discussion of her training in docketing, what degree of supervision over her work was in place or examples of other work functions she may have performed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

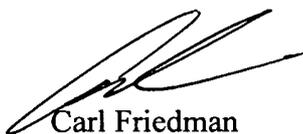
By facsimile: (571) 273-8300
 Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
 Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Patent No. 5,885,823

Page 3

Telephone inquiries regarding this communication should be directed to Carl Friedman at (571) 272-6842.



Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314



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MAILED
APR 28 2011
OFFICE OF PETITIONS

THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE CA 95134

In re Patent No. 5,772,874 :
Issued: June 30, 1998 :
Application No. 08/661,367 : **ON PETITION**
Filed: June 11, 1996 :
Attorney Docket No. 3186US2/NAT :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 12, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, the \$1,330.00 seven and one-half year maintenance and \$65.00 late surcharge deficiency fees have been charged to petitioner's deposit account as authorized March 12, 2010.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5855585 | 1999-01-05 | 08661844 | 1996-06-11 | 47563.0212 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /L. Grant Foster/ | Date (YYYY-MM-DD) | 2011-03-29 |
| Name | L. Grant Foster | Registration Number | 33236 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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
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In re Patent No. 5855585 :
Issue Date: January 5, 1999 :
Application No. 08661844 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 11, 1996 :
Attorney Docket No. 2703/1 :

This is a decision on the electronic petition, filed March 29, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 29, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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 #15

MUNCY, GEISSLER, OLDS & LOWE, PLLC
PO BOX 1364
FAIRFAX VA 22038-1364

MAILED
DEC 23 2010
OFFICE OF PETITIONS

In re Patent No. 5,630,776 :
Issue Date: May 20, 1997 :
Application No. 08/662,357 : ON PETITION
Filed: June 12, 1996 :
Attorney Docket No. 5900/0193PUS1 :

This is a decision on the renewed petition under 37 CFR 1.378(e), filed on September 2, 2010, requesting reconsideration of a prior decision which refused to accept under 37 CFR 1.378(b)¹ the delayed payment of a maintenance fee for the above-referenced patent.

The petition is **GRANTED**.

The patent issued May 20, 1997. The second maintenance fee could have been paid during the period from May 20, 2004 through November 23, 2004, or with a surcharge during the period from November 23, 2004 through May 20, 2005. The patent expired at midnight on May 20, 2005, for failure to timely pay the second maintenance fee.

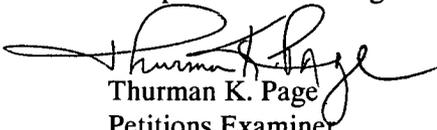
Petitioner has demonstrated to the satisfaction of the Director that the delay in timely paying the maintenance fee was unavoidable.

¹ A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include
(1) the required maintenance fee set forth in '1.20(e) through (g);
(2) the surcharge set forth in '1.20(I)(1); and
(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

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 Diane Goodwyn at (571) 272-6735.

The patent file is being forwarded to Files Repository.



Thurman K. Page
Petitions Examiner
Office of Petitions



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P.O. Box 1450
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MUNCY, GEISSLER, OLDS & LOWE, PLLC
PO BOX 1364
FAIRFAX VA 22038-1364

MAILED

JAN 17 2012

OFFICE OF PETITIONS

In re Patent No. 5,630,776 :
Issue Date: May 20, 1997 :
Application No. 08/662,357 : **DECISION ON REQUEST FOR REFUND**
Filed: June 12, 1996 :
Attorney Docket No. 5900/0193PUS1 :

This is a decision on the Request For Refund filed December 14, 2011.

The request is **DISMISSED**.

Applicant files the above request for refund and states that "On April 5, 2010, a Decision dismissing the Petition was mailed. This Decision noted that, "If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid." It is noted that the Petition to Accept Unintentionally Delayed Payment of Maintenance Fee under 37 CFR 1.378(c) was not renewed or granted and, as such, it is respectfully requested that the \$1640 surcharge be refunded to the undersigned's Deposit Account 50-3828."

However, a review of Office finance records show a total of \$3,580.00 which is for the below fees:

\$2,480.00 – 7.5 yr. Maintenance Fee Payment

\$700.00 - Unavoidable Petition Under 37 CFR 1.378(b)(Surcharge after expiration)

\$400.00 – Request for Reconsideration of Petition Under 37 CFR 1.378(e).

In view of the above, the request for refund is dismissed as there is no surcharge fee of \$1,640.00 to be refunded.

Application No. 08/662,357

-2-

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | |
|--|-------------------------|--------------------|----------------------------------|-------------------------------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
| 5941836 | 1999-08-24 | 08662848 | 1996-06-12 | 0667-950847 |
| CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d). | | | | |
| SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27. | | | | |
| LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g) | | | | |
| NOT Small Entity | | Small Entity | | |
| <input type="radio"/> | Fee 3 ½ year | Code (1551) | <input type="radio"/> | Fee 3 ½ year |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year |
| <input type="radio"/> | 11 ½ year | (1553) | <input checked="" type="radio"/> | 11 ½ year |
| <input type="radio"/> | | | <input type="radio"/> | Code (2551) |
| <input type="radio"/> | | | <input type="radio"/> | Code (2552) |
| <input type="radio"/> | | | <input checked="" type="radio"/> | Code (2553) |
| SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee. | | | | |
| MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition. | | | | |
| STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL | | | | |
| PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED | | | | |
| THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES 37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest." I certify, in accordance with 37 CFR 1.4(d)(4) that I am | | | | |
| <input type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input checked="" type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> 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.

| Sole Patentee | | | |
|--|--------------------|-------------------|------------|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature. | | | |
| Signature | /Mark B. Friedman/ | Date (YYYY-MM-DD) | 2011-10-27 |
| Name | Mark B. Friedman | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5941836 :
Issue Date: August 24,1999 :
Application No. 08662848 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 12,1996 :
Attorney Docket No. 667-950847 :

This is a decision on the electronic petition, filed October 28,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 28,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5804014 | 1998-09-08 | 08/663,100 | 1996-06-28 | 00985.00.0156 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael J. Turgeon/ | Date (YYYY-MM-DD) | 2011-05-31 |
| Name | Michael J. Turgeon | Registration Number | 39404 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5804014 :
Issue Date: September 8, 1998 :
Application No. 08663100 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 28, 1996 :
Attorney Docket No. CRSTN0315 :

This is a decision on the electronic petition, filed May 31, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 31, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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PETER A. LANGES
537 HASTINGS DRIVE
BENICIA, CA 94510

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re Patent No. 5,671,761 :
Issue Date: September 30, 1997 :
Application No. 08/663,353 :
Filed: June 13, 1996 :
Title of Invention: **VEHICLE WASH SYSTEM** :
WITH SHUT-OFF SWITCH ACTIVATED BY :
THE WASH MEDIUM :

ON PETITION

This is a decision on the petition filed under 37 CFR 1.378(b), July 5, 2011, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The patent issued on September 30, 1997. The first maintenance fee due could have been paid during the period from September 30, 2000 to March 30, 2001 or, with a surcharge during the period from March 31, 2001 to September 30, 2001. Additionally, the second maintenance fee due could have been paid from September 30, 2004 to March 30, 2005 or, with a surcharge during the period from March 31, 2005 to September 30, 2005. Finally, the third maintenance fee due could have been paid from September 30, 2008 to March 30, 2009 or, with a surcharge during the period from March 31, 2009 to September 30, 2009. Accordingly, this patent expired on September 30, 2001 for failure to timely remit the first maintenance fee.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(l)(1).

This petition lacks item (1) and (2) above.

Petitioner, argues that a petition to accept the delayed payment of the maintenance fee was paid March 21, 2011 but was dismissed in a decision mailed May 5, 2011 because the appropriate fees pursuant to 37 CFR 1.20(e)-(g) had not been remitted. The petition further asserts that the delay was unavoidable due to a medical disability and a financial hardship.

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay").¹ Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.² In this regard:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.³

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.⁴ That is, an adequate showing that the delay 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.⁵

¹Ray 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. 1989)).

²Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

³In 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). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

⁴Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

⁵Id.

The showing of record is inadequate to establish that the delay in timely paying the maintenance fee was unavoidable within the meaning of 37 CFR 1.378(b)(3).

While the instant petition points to a March 21, 2011 petition and a May 5, 2011 decision, a review of the record does not reveal that neither a petition was filed or a decision was mailed.

Petitioner has also not shown that a maintenance fee for the first, second or third scheduled payments has been made. The petitioner argues that an amount equal to \$3295 was deposited into the US Treasury on April 5, 2011. Petitioner is advised that at the present writing, the fees total \$3785, (\$490 for the first maintenance fee, \$1240 for the second maintenance fee and \$2055 for the third maintenance fee). At present there is no evidence that any maintenance fees have been paid.

If it is petitioner's argument that he was financially unable to make the payments when due, a showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the entire period of the delay was such as to excuse the delay. See Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). The showing of record does not adequately establish that petitioner's entire delay in paying the first, second and third maintenance fees from September 20, 2000, until the petition was filed on July 5, 2011, was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).

A complete showing, with supporting documentation, is required of the financial condition of petitioner or the party responsible for payment of the maintenance fees. Such showing should include all income, expenses, assets, credit, and obligations, which made the delay in payment of the maintenance fee from September 30, 2001, until the filing of the petition on July 5, 2011, "unavoidable." A monthly breakdown is preferred. In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was financially unable to make the payment until the petition was filed. The showing should include documentary proof of the maintenance fee tracking system, the entry of this patent in that system and an explanation of how the system worked.

Additionally a showing of "unavoidable" delay based upon a medical or mental health situation, must include a showing that petitioner was incapacitated as a result, and that the incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between when the maintenance fee was due and the filing of the petition on July 5, 2011. Such a showing must be supported by a statement from a treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. The statement must also state the time period during which petitioner was or is incapacitated, and the degree to which the disability has impaired and continues to impair petitioner's ability to pay the maintenance fees.

Petitioner is cautioned to avoid submitting personal information in documents filed 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. If this type of personal information is included in documents submitted to the USPTO, petitioner should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner is advised that the record of a patent is available to the public after issuance of a patent. 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.

Finally, there is no indication that petitioner herein was ever empowered to handle matters related to this patent. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney documentation must be submitted. If the new power of attorney and/or change of address is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). This decision will be mailed to petitioner, however, all future correspondence will be mailed solely to the correspondence address of record. If petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

For all the reasons listed above, petitioner has not carried the burden of proof to establish to the satisfaction of the Director that the delay was unavoidable. As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under the unavoidable standard, the petition will be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614**

MAILED

JUN 23 2011

| | | |
|----------------------------------|---|----------------------------|
| In re Patent No. 5,662,706 | : | OFFICE OF PETITIONS |
| Issued: September 2, 1997 | : | |
| Application No. 08/663,622 | : | ON PETITION |
| Filed: June 14, 1996 | : | |
| Attorney Docket No. ACUFO.000GEN | : | |

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 13, 2011.

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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
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

**KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614**

**MAILED
JUN 20 2011
OFFICE OF PETITIONS**

In re Application of :
Chun-Shen LEE et al. :
Application No. 08/663,907 :
Filed: June 14, 1996 : **NOTICE UNDER 37 CFR. 1.28(c)**
Patent No. 5,905,561 :
Issued: May 18, 1999 :
Attorney Docket No. 021480-561 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue 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.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | | | | | | | | | | | | | | | | | |
|---|----------------------------|-----------------------|-----------------------------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|---|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|--|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5840408 | 1998-11-24 | 08663945 | 1996-06-14 | | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input checked="" type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <p><input type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office</p> <p><input checked="" type="radio"/> A sole patentee</p> <p><input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.</p> <p><input type="radio"/> A joint patentee; all of whom are signing this e-petition</p> <p><input type="radio"/> The assignee of record of the entire interest</p> | | | | | | | | | | | | | | | | | | | | |

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| 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 | /ELENE M. GIANSETTO/ | Date (YYYY-MM-DD) | 2011-02-08 |
| Name | ELENE M. GIANSETTO | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5840408 :
Issue Date: November 24,1998 :
Application No. 08663945 :DECISION GRANTING PETITION
Filed: June 14,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. GIANSETTO-3. :

This is a decision on the electronic petition, filed February 8,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 8,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5770395 | 1998-06-23 | 08665537 | 1996-06-18 | GMU-94-001U |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /David Grossman, Reg. No. 42,609/ | Date (YYYY-MM-DD) | 2011-06-28 |
| Name | David Grossman | Registration Number | 42609 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5770395 :
Issue Date: June 23,1998 :
Application No. 08665537 :DECISION GRANTING PETITION
Filed: June 18,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed June 29,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 29,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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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MAILED

FEB 15 2011

OFFICE OF PETITIONS

**THE MARBURY LAW GROUP, PLLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191**

In re Application of :
James F. Lea Jr. :
Application No. 08/665,671 : **NOTICE**
Filed: June 20, 1996 :
Attorney Docket No. 44448/07.855 :

This is in response to the paper filed August 10, 2010 and supplemented on January 24, 2011 which is treated under 37 CFR 1.27(c) seeking status as a small entity. This is also a decision on the request for refund of the large entity portion of the fees paid on July 28, 2010.

The statement claiming small entity status of August 10, 2010, has been made of record and small entity status has been accorded.

As to the request for refund:

The request for refund of the large entity portion of the fees paid on July 28, 2010 in the amount of \$2,120.00 is being credited to petitioner's credit card account as requested.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen B. Salai, Esq.
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester NY 14604-2711

Paper No. 19

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Patent No. 5,788,285 :
Issue Date: August 4, 1998 :
Application No. 08/666,006 :
Filed: June 19, 1996 :
Attorney Docket No. IPR21 :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 27, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight August 4, 2010, for failure to pay the 11½ 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 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.

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: R Andrew McTaggart
1235 Bay Street
Suite 1000
Toronto, Ontario, Canada M5R 3K4



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen B. Salai, Esq.
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester NY 14604-2711

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Patent No. 5,788,285 :
Issue Date: August 4, 1998 :
Application No. 08/666,006 : **ON PETITION**
Filed: June 19, 1996 :
Attorney Docket No. **IPR21** :

REQUIREMENT FOR ADDITIONAL INFORMATION

A renewed petition under 37 CFR 1.378(c), was filed April 22, 2011¹, with a Certificate of Mailing date of April 15, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight August 4, 2010, for failure to pay the 11½ 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).

DISCUSSION ON RENEWED PETITION UNDER 37 CFR 1.378(c)

The instant renewed petition was filed by "Howard J. Greenwald" who is a registered patent attorney or patent agent not of record. Attorney Greenwald appears to be acting in a representative capacity under the provisions of § 1.34. However, when a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required. *See 37 CFR 1.34.*

¹It was supplemented by the communications filed May 4, 2011, May 16, 2011, May 23, 2011 and May 31, 2011.

Accordingly, Mr. Greenwald, the person who signed the instant petition, must show proof of authority as to the party he is representing.

It is also brought to petitioners' attention that a review of the file indicates that a petition was filed by two different petitioners and that the patentee has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications are to be mailed. See 37 CFR 1.33(a).

It appears that there are multiple assignees associated with this patent. When an assignee seeks to take action in a matter before the Office with respect to a patent application, patent, or reexamination proceeding and the right, title, and interest therein is held by more than one assignee, each partial assignee must provide a submission under 37 CFR 3.73(b). In each submission, the extent of each assignee's interest must be set forth so that the Office can determine whether it has obtained action by the entirety of the right, title and interest holders (owners). 37 CFR 3.73(c)(2). If the extent of the partial assignee's ownership interest is not set forth in the submission under 37 CFR 3.73(b), the Office may refuse to accept the submission as an establishment of ownership interest.

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

DISCUSSION OF COMMUNICATIONS

On May 4, 2011, May 16, 2011, May 23, 2011 and May 31, 2011 communications was filed by "Ray Maxon" requesting reinstatement of the above-identified patent. However, Mr. Maxon did not sign any of the communications. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states:

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant. Therefore, since the communications were not signed the Office will not treat them further on their merits.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to clarify the above matter.

The response should include a cover letter entitled "Response to Requirement for Additional Information."

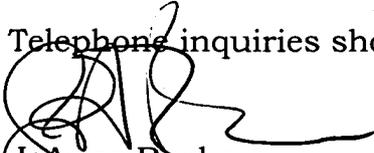
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Ray Maxon
8322 Richmond Park Road
Blain, WA 98230

cc: Howard J. Greenwald
70 Linden Oaks, Third Floor
Rochester, NY 14625



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Stephen B. Salai, Esq.
Harter Secrest & Emery LLP
1600 Bausch & Lomb Place
Rochester NY 14604-2711

MAILED

NOV 22 2011

OFFICE OF PETITIONS

In re Patent No. 5,788,285 :
Issue Date: August 4, 1998 :
Application No. 08/666,006 :
Filed: June 19, 1996 :
Attorney Docket No. **IPR21** :

ON PETITION

REQUIREMENT FOR ADDITIONAL INFORMATION

A renewed petition under 37 CFR 1.378(c), was filed August 5, 2011¹, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight August 4, 2010, for failure to pay the 1 1/2 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).

Petitioner Ray Maxon owns 24% and has submitted the required statement of unintentional delay. The statement by Andrew McTaggart on behalf of Adlertech International, the 1% owner, was not accompanied by a proper 3.73(b) statement (to establish the right of Mr. McTaggart to act on behalf of Adlertech International) and as such the statement of delay is not acceptable. As for the 75% owner, we have not received a statement.

DISCUSSION ON THE PETITIONER'S RESPONSE TO THE REQUEST FOR ADDITIONAL INFORMATION

Petitioner "Ray Maxon" has stated in the instant response submitted on August 5, 2011, that he had several discussion with "Brad Salai" and that he suggested that petitioner send in the instant response because he is "traveling and currently unavailable." Petitioner also stated that the "Wicker Family

¹It was supplemented by the communication filed August 9, 2011

Trust has also been requested to submit the information requested and will be sent by them directly to [the Office]. They own 75% of the patent . . . The final 1% is owned by Adlertech International . . .” However, since there are more than one assignee associated with this patent, each partial assignee must provide an acceptable submission under 37 CFR 3.73(b) along with a statement of unintentional delay. I would also like to bring to petitioner attention that Mr. Salai is no longer the attorney of record in this patent application.

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

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to clarify the above matter. This will be the final request for additional information.

The response should include a cover letter entitled “Response to Requirement for Additional Information.”

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-4584.

A handwritten signature in black ink, appearing to read 'JoAnne Burke', written over the printed name.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Ray Maxon
8322 Richmond Park Road
Blain, WA 98230

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5791526 | 1998-08-11 | 08666349 | 1996-08-07 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Benoit Castel/ | Date (YYYY-MM-DD) | 2010-12-10 |
| Name | Benoit CASTEL | Registration Number | 35041 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5791526 :
Issue Date: August 11,1998 :
Application No. 08666349 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 7,1996 :
Attorney Docket No. DB/446 :

This is a decision on the electronic petition, filed December 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 10,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | |
|--|-------------------------|--------------------|----------------------------------|-------------------------------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
| 5,868,889 | 1999-02-09 | 08/666,539 | 1996-06-28 | 00985.00.0158 |
| CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d). | | | | |
| SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27. | | | | |
| LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g) | | | | |
| NOT Small Entity | | Small Entity | | |
| <input type="radio"/> | Fee 3 ½ year | Code (1551) | <input type="radio"/> | Fee 3 ½ year |
| <input type="radio"/> | 7 ½ year | (1552) | <input type="radio"/> | 7 ½ year |
| <input type="radio"/> | 11 ½ year | (1553) | <input checked="" type="radio"/> | 11 ½ year |
| <input type="radio"/> | | | <input type="radio"/> | Code (2551) |
| <input type="radio"/> | | | <input type="radio"/> | Code (2552) |
| <input type="radio"/> | | | <input checked="" type="radio"/> | Code (2553) |
| SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee. | | | | |
| MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition. | | | | |
| STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL | | | | |
| PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED | | | | |
| THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES 37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest." I certify, in accordance with 37 CFR 1.4(d)(4) that I am | | | | |
| <input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> The assignee of record of the entire interest | | | | |

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|----------------------|----------------------------|------------|
| Signature | /Michael J. Turgeon/ | Date (YYYY-MM-DD) | 2011-05-31 |
| Name | Michael J. Turgeon | Registration Number | 39404 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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In re Patent No. 5868889 :
Issue Date: February 9, 1999 :
Application No. 08666539 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 28, 1996 :
Attorney Docket No. CRSTN-0313 :

This is a decision on the electronic petition, filed May 31, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 31, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,888,262 | 1999-03-30 | 08/666,540 | 1996-06-28 | 00985.00.0157 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|----------------------|----------------------------|------------|
| Signature | /Michael J. Turgeon/ | Date (YYYY-MM-DD) | 2011-05-31 |
| Name | Michael J. Turgeon | Registration Number | 39404 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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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8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which 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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In re Patent No. 5888262 :
Issue Date: March 30,1999 :
Application No. 08666540 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 28,1996 :
Attorney Docket No. CRSTN0314 :

This is a decision on the electronic petition, filed May 31,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 31,2011 .
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this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5631988 | 1997-05-20 | 08667367 | 1996-06-21 | 0013 P00797-US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /stephen holmes/ | Date (YYYY-MM-DD) | 2010-08-19 |
| Name | Stephen Holmes | Registration Number | 34621 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5631988 :
Issue Date: May 20,1997 :
Application No. 08667367 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 21,1996 :
Attorney Docket No. 152236-0010 :

This is a decision on the electronic petition, filed August 19,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,857,909 | 1999-01-12 | 08/668,917 | 1996-06-24 | 0096-0001-GEN |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Dean L. Fanelli/ | Date (YYYY-MM-DD) | 2011-09-23 |
| Name | Dean L. Fanelli | Registration Number | 48904 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5857909 :
Issue Date: January 12,1999 :
Application No. 08668917 :DECISION GRANTING PETITION
Filed: June 24,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed September 23,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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

SEP 13 2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Charles Ryan
Forest Laboratories Inc.
909 Third Avenue
New York, New York 10022

Re: Patent Term Extension
Application for
U.S. Patent No. 5,759,580

WITHDRAWAL OF APPLICATION FOR PATENT TERM EXTENSION

This is in response to the election of U.S. Patent No. 6,545,040 filed August 16, 2011, for patent term extension for U.S. Patent No. 5,759,580 based on the regulatory review of BYSTOLIC® (nebivolol hydrochloride).

Because U.S. Patent No. 5,759,580 was NOT elected, the application is withdrawn.

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

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
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Associate 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

RE: BYSTOLIC® (nebivolol
hydrochloride)
Docket No.: FDA-2008-E-0267

Attention: Beverly Friedman



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Application of :
Peter Geistlich et al. :
Patent No. 5,837,278 :
Application No. 08/669,448 :
Filed: November 18, 1996 :
Attorney Docket No. **1194-0405** :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 July 13, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Fredelle D. Jackson/
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5787212 | 1998-07-28 | 08669789 | 1996-06-28 | 039311 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|---------------------|---------------------|------------|
| Signature | /Mark E. Wallerson/ | Date (YYYY-MM-DD) | 2011-08-22 |
| Name | Mark E. Wallerson | Registration Number | 59043 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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).
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or 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. 5787212 :
Issue Date: July 28,1998 :
Application No. 08669789 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 28,1996 :
Attorney Docket No. 0136/OC103 :

This is a decision on the electronic petition, filed August 22,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 22,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,718,929 | 1998-02-17 | 08670547 | 1996-06-27 | 8614.132 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Bernard S. Klosowski, Jr./ | Date (YYYY-MM-DD) | 2010-09-07 |
| Name | Bernard S. Klosowski, Jr. | Registration Number | 47710 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5718929 :
Issue Date: February 17, 1998 :
Application No. 08670547 :DECISION GRANTING PETITION
Filed: June 27, 1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. RLK-8 :

This is a decision on the electronic petition, filed September 7, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5782374 | 1998-07-21 | 08673142 | 1996-06-01 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|------------------|---------------------|------------|
| Signature | /bruce a jagger/ | Date (YYYY-MM-DD) | 2011-01-24 |
| Name | Bruce A. Jagger | Registration Number | 19968 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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.
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5782374 :
Issue Date: July 21,1998 :
Application No. 08673142 :DECISION GRANTING PETITION
Filed: June 1,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed January 24,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 24,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5703391 | 1997-12-30 | 08673183 | 1996-06-27 | ID 002811 |

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SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

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STATEMENT

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PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

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- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|-------------------|---------------------|------------|
| Signature | /SMG/ | Date (YYYY-MM-DD) | 2011-01-06 |
| Name | Steven M. Gruskin | Registration Number | 36818 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5703391 :
Issue Date: December 30, 1997 :
Application No. 08673183 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 27, 1996 :
Attorney Docket No. 394-2094 :

This is a decision on the electronic petition, filed January 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 6021352 | 2000-02-01 | 08673717 | 1996-06-26 | P0003864.00 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
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SURCHARGE

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|---------------|----------------------------|------------|
| Signature | /SCOTT LUND/ | Date (YYYY-MM-DD) | 2012-03-08 |
| Name | Scott A. Lund | Registration Number | 41166 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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The information provided by you in this form will be subject to the following routine uses:

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6021352 :
Issue Date: February 1,2000 :
Application No. 08673717 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 26,1996 :
Attorney Docket No. P-3864 :

This is a decision on the electronic petition, filed March 8,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 8,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5771025 | 1998-06-23 | 08673871 | 1996-07-02 | 217/184 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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P.O. Box 1450
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In re Patent No. 5771025 :
Issue Date: June 23,1998 :
Application No. 08673871 :DECISION GRANTING PETITION
Filed: July 2,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 217/184 :

This is a decision on the electronic petition, filed October 18,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | | | | | | | | | | | | | | | | | |
|--|----------------------------|-----------------------|-----------------------------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|---|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|--|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5,826,535 | 1998-10-27 | 08/674,651 | 1996-06-25 | ELEPRO.P01 | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td style="text-align: center;"><input type="radio"/> 3 ½ year</td> <td style="text-align: center;">(1551)</td> </tr> <tr> <td style="text-align: center;"><input type="radio"/> 7 ½ year</td> <td style="text-align: center;">(1552)</td> </tr> <tr> <td style="text-align: center;"><input type="radio"/> 11 ½ year</td> <td style="text-align: center;">(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td style="text-align: center;"><input type="radio"/> 3 ½ year</td> <td style="text-align: center;">(2551)</td> </tr> <tr> <td style="text-align: center;"><input type="radio"/> 7 ½ year</td> <td style="text-align: center;">(2552)</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="radio"/> 11 ½ year</td> <td style="text-align: center;">(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input checked="" type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <p><input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office</p> <p><input type="radio"/> A sole patentee</p> <p><input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.</p> <p><input type="radio"/> A joint patentee; all of whom are signing this e-petition</p> <p><input type="radio"/> The assignee of record of the entire interest</p> | | | | | | | | | | | | | | | | | | | | |

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|--------------------|---------------------|------------|
| Signature | /Patrick M. Dwyer/ | Date (YYYY-MM-DD) | 2011-03-17 |
| Name | Patrick M. Dwyer | Registration Number | 32411 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5826535 :
Issue Date: October 27,1998 :
Application No. 08674651 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: June 25,1996 :
Attorney Docket No. ELEPRO.P01 :

This is a decision on the electronic petition, filed March 17,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 17,2011 .
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|--|-------------------------|--------------------|--------------------------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|---|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|--|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5,747,088 | 1998-05-05 | 08/675,538 | 1996-07-03 | 55844-219722 | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
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| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <ul style="list-style-type: none"> <input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> 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 | /Jeffrey T.G. Kelsey/ | Date (YYYY-MM-DD) | 2011-12-15 |
| Name | Jeffrey T.G. Kelsey | Registration Number | 63696 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Alexandria, VA 22313-1450
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In re Patent No. 5747088 :
Issue Date: May 5, 1998 :
Application No. 08675538 :DECISION GRANTING PETITION
Filed: July 3, 1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. FPTI19425 :

This is a decision on the electronic petition, filed December 15, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 15, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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Alexandria, VA 22313-1450
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**KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614**

**MAILED
DEC 14 2011
OFFICE OF PETITIONS**

In re Patent No. 5,907,839 :
Issued: May 25, 1999 :
Application No. 08/675,618 : **NOTICE**
Filed: July 3, 1996 :
Attorney Docket No. KM2680.001A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 28, 2011.

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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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Eugene Quinn IP Watchdong Inc.
525 K Street #331
Leesburg, VA 20176

Paper No. 22

MAILED

JAN 04 2011

OFFICE OF PETITIONS

| | | |
|----------------------------|---|----------------------|
| In re Application of | : | |
| Sarah A. McPherson | : | DECISION ON PETITION |
| Application No. 08/677,556 | : | TO WITHDRAW |
| Filed: July 10, 1996 | : | FROM RECORD |
| Attorney Docket No. | : | |

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed September 9, 2010 and September 27, 2010.

The request is **NOT APPROVED** as moot.

The Office does not process request to withdraw of attorneys on patented application. However, a review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number has been revoked by the inventor of the patent application on September 2, 2010. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Sarah McPherson
500 Fisher Gravel Pit Road,
P.O.Box 504
Decaturville TN 38329

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) | | | | | | | | | | | | | | | | | | | | |
|---|----------------------------|-----------------------|-----------------------------|--------------------------------|--------|--------------------------------|--------|---------------------------------|--------|---|--|--|-----|------|--------------------------------|--------|--------------------------------|--------|--|--------|
| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) | | | | | | | | | | | | | | | | |
| 5791908 | 1998-08-11 | 08/678,282 | 1996-07-11 | 2272/5 | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(1552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td>(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td>(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td>(2552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td>(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input checked="" type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <p><input type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office</p> <p><input checked="" type="radio"/> A sole patentee</p> <p><input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.</p> <p><input type="radio"/> A joint patentee; all of whom are signing this e-petition</p> <p><input type="radio"/> The assignee of record of the entire interest</p> | | | | | | | | | | | | | | | | | | | | |

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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 | /Robert G. Gillio/ | Date (YYYY-MM-DD) | 2010-12-22 |
|------------------|--------------------|--------------------------|------------|

| | |
|-------------|------------------|
| Name | Robert G. Gillio |
|-------------|------------------|

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when 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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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5791908 :
Issue Date: August 11,1998 :
Application No. 08678282 :DECISION GRANTING PETITION
Filed: July 11,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 2272/5 :

This is a decision on the electronic petition, filed December 22,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 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.

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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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5720232 | 1998-02-24 | 08678825 | 1996-07-10 | 13925-49728 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|--------------------|----------------------------|------------|
| Signature | /Gina T. Constant/ | Date (YYYY-MM-DD) | 2010-08-20 |
| Name | Gina T. Constant | Registration Number | 59355 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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.



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In re Patent No. 5720232 :
Issue Date: February 24,1998 :
Application No. 08678825 :DECISION GRANTING PETITION
Filed: July 10,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. MP-7-95 :

This is a decision on the electronic petition, filed August 20,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 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.



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Alexandria, VA 22313-1450
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**PARKER INTELLECTUAL PROPERTY LAW OFFICE
536 PANTOPS CENTER
234
CHARLOTTESVILLE VA 22911**

**MAILED
JUN 13 2011
OFFICE OF PETITIONS**

In re Patent No. 6,053,922 :
Issued: April 25, 2000 :
Application No. 08/680,628 : **ON PETITION**
Filed: July 17, 1996 :
Attorney Docket No. GC-267 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 4, 2011.

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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5870894 | 1999-02-16 | 08680671 | 1996-07-16 | TURT-0001 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael P. Dunnam/ | Date (YYYY-MM-DD) | 2011-08-29 |
| Name | Michael P. Dunnam | Registration Number | 32611 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5870894 :
Issue Date: February 16,1999 :
Application No. 08680671 :DECISION GRANTING PETITION
Filed: July 16,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 8204/003 :

This is a decision on the electronic petition, filed August 29,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 29,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Patent No. 5,838,738 :
Issued: November 17, 1998 :
Application No. 08/681,693 :
Filed: July 29, 1996 :
Attorney Docket No. MSCO-041-HS :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 31, 2011.

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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,826,434 | 1998-10-27 | 08/682,131 | 1996-07-17 | |

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

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Deborah L. Lu/ | Date (YYYY-MM-DD) | 2011-10-11 |
| Name | Deborah L. Lu | Registration Number | 50940 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5826434 :
Issue Date: October 27,1998 :
Application No. 08682131 :DECISION GRANTING PETITION
Filed: July 17,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 95-46 :

This is a decision on the electronic petition, filed October 11,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 11,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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.

TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND OH 44115-1414

MAILED

AUG 12 2010

In re Patent No. 6,128,607 : **OFFICE OF PETITIONS**
Nordin et al. :
Issue Date: October 3, 2000 : **DECISION ON PETITION**
Application No. 08/682,859 :
Filed: July 12, 1996 :
Attorney Docket No. 99-0740 :

This is a decision on the PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b)), " filed December 9, 2008.

The petition under 37 CFR 1.378(b) is DISMISSED.

The patent issued October 3, 2000. The grace period for paying the 3-½ year maintenance fee expired at midnight on October 3, 2004, with no payment received. Moreover, the grace period for paying the 7-½ year maintenance fee expired at midnight on October 3, 2008, with no payment received.

The petition includes payment of the first maintenance fee (\$1305) and the surcharge after expiration of \$700 where late payment is unavoidable. The petition does not include the second maintenance fee despite the fact that as of the date of filing of the petition the window for payment of the 7 ½ maintenance fee had closed. Moreover, the record has been carefully reviewed and it does not appear that petitioner included a statement to show that the delay in payment of the maintenance fee was unavoidable. Rather, the Office has merely received pages 1-3 of the form petition (PTO/SB/65).

STATUTES, RULES AND REGULATIONS

35 U.S.C. § 41(c)(1) states that:

The Director may accept the delayed payment of any maintenance fee required ... after the six month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable.

37 C.F.R. §1.378(b) provides that:

Any petition to accept an unavoidably delayed payment of a maintenance fee must include:

- (1) The required maintenance fee set forth in §1.20(e) through (g);
- (2) The surcharge set forth in §1.20(I)(1); and
- (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. 133. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68

(D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). However, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

OPINION

Requirements (1) and (3) above are not met. Petitioner has failed to meet his burden of showing that the delay was unavoidable. Petitioner simply does not provide any showing to establish that the delay was "unavoidable."

Moreover, petitioner does not provide the required maintenance fees as set forth in §1.20(e) through (g). As this patent issued October 3, 2000, the period for payment of both the first and the second maintenance fees had expired when this petition was filed on December 9, 2008. Nonetheless, Petitioner, without explanation, only submitted the 3 ½ year maintenance fee.

CONCLUSION

For the reasons set forth above, it is concluded that petitioner has not met his burden of showing that the delay in paying the maintenance fee was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).

In view thereof, the petition is DISMISSED.

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the \$400 petition fee set forth in § 1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Accordingly, on request for reconsideration, it is extremely important the petitioner supply any and all relevant information and documentation in order to meet his burden of showing unavoidable delay.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the maintenance fee and the surcharge set forth in §1.20(i) are subject to refund following the decision on the petition for reconsideration, or

after the expiration of the time for filing such a petition for reconsideration, if none is filed. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington DC 20231. A copy of the last decision rendered should accompany the request for refund).

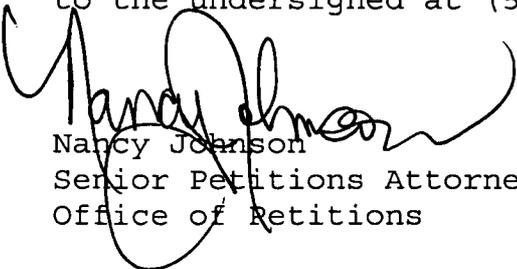
Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By fax: (571) 273-8300
 ATTN: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 032411

DATE : 03-18-2011

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No. 08683943 Patent No: 5715195

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 (Co f C)
Randolph Square – 9D10-

EvaJames

Should this req. be entered?

571-272-3422

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

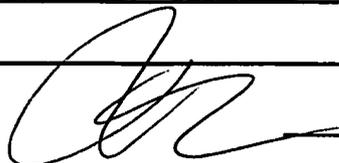
Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Approved TN 3/24/11

3/24/11



RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2824

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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5890906 | 1999-04-06 | 08684435 | 1996-07-19 | PLX-002 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.

| | | | |
|-----------|--------------------|-------------------|------------|
| Signature | /Vincent J. Macri/ | Date (YYYY-MM-DD) | 2011-05-17 |
| Name | Vincent J. Macri | | |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5890906 :
Issue Date: April 6, 1999 :
Application No. 08684435 :DECISION GRANTING PETITION
Filed: July 19, 1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. PLX-002 :

This is a decision on the electronic petition, filed May 17, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 17, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5914129 | 1999-06-22 | 08685078 | 1996-07-23 | 068435-5003US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|------------------|---------------------|------------|
| Signature | /Robert P. Udal/ | Date (YYYY-MM-DD) | 2011-11-03 |
| Name | Robert P. Udal | Registration Number | 56608 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5914129 :
Issue Date: June 22,1999 :
Application No. 08685078 :DECISION GRANTING PETITION
Filed: July 23,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 8363-004 :

This is a decision on the electronic petition, filed November 3,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,796,191 | 1998-08-18 | 08685098 | 1996-07-22 | 121291USMF |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|--------------------|----------------------------|------------|
| Signature | /Bradley D. Lytle/ | Date (YYYY-MM-DD) | 2010-12-22 |
| Name | Bradley D. Lytle | Registration Number | 40073 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5796191 :
Issue Date: August 18,1998 :
Application No. 08685098 :DECISION GRANTING PETITION
Filed: July 22,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 107-944-3 :

This is a decision on the electronic petition, filed December 22,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 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.

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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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,711,653 | 1998-01-27 | 08685134 | 1996-07-24 | |

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

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LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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NOT Small Entity

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Small Entity

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| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Gregory J. Gore/ | Date (YYYY-MM-DD) | 2012-01-26 |
| Name | Gregory J. Gore | Registration Number | 30057 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5711653 :
Issue Date: January 27,1998 :
Application No. 08685134 :DECISION GRANTING PETITION
Filed: July 24,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 5532-20184 :

This is a decision on the electronic petition, filed January 26,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 26,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5865262 | 1999-02-02 | 08685542 | 1996-07-24 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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| 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 | /Xuan z Ni/ | Date (YYYY-MM-DD) | 2011-07-23 |
| Name | Xuan z Ni | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5865262 :
Issue Date: February 2, 1999 :
Application No. 08685542 :DECISION GRANTING PETITION
Filed: July 24, 1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed July 27, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 27, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5742804 | 1998-04-21 | 08685607 | 1996-07-24 | 02379.P036 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|--------------------|---------------------|------------|
| Signature | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| Name | Kendal M. Sheets | Registration Number | 47077 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5742804 :
Issue Date: April 21,1998 :
Application No. 08685607 :DECISION GRANTING PETITION
Filed: July 24,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 02379.P036 :

This is a decision on the electronic petition, filed October 18,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL J. COLITZ, JR.
217 HARBOR VIEW LANE
LARGO FL 33770 BOSTON MA 02111

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 5,671,484 :
Issued: September 30, 1997 :
Application No. 08/685,989 : **DECISION ON PETITION**
Filed: July 22, 1996 :
Title: Toilet Ventilator Apparatus :

This is a decision on the petition under 37 CFR 1.378(c), filed June 3, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 1, 2009 for failure to pay the eleven 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.

Additionally, 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. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Robert Lee, III
P.O. Box 477
Clayton, LA 71326

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5785323 | 1998-07-28 | 08686315 | 1996-07-25 | H422.12-0005 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
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| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
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Small Entity

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SURCHARGE

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|----------------------|----------------------------|------------|
| Signature | /David R. Fairbairn/ | Date (YYYY-MM-DD) | 2010-09-14 |
| Name | David R. Fairbairn | Registration Number | 26047 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5785323 :
Issue Date: July 28,1998 :
Application No. 08686315 :DECISION GRANTING PETITION
Filed: July 25,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. H-422.12-000 :

This is a decision on the electronic petition, filed September 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 14,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 6029936 | 2000-02-29 | 08686497 | 1996-08-22 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| The Assignee of record of the entire interest | | | |
|--|--|-------------------|------------|
| Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest | | | |
| Signature | /joel e. wilensky/ | Date (YYYY-MM-DD) | 2012-03-06 |
| Name | Joel E. Wilensky, VP Blue Ribbon Pet Products Inc. | | |
| Enter Reel and Frame Number | | Remove | |
| Reel Number | 008142 | Frame Number | 0506 |
| Click ADD for additional Reel Number and Frame Number | | Add | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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Alexandria, VA 22313-1450
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In re Patent No. 6029936 :
Issue Date: February 29,2000 :
Application No. 08686497 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 22,1996 :
Attorney Docket No. 248-(SENESE) :

This is a decision on the electronic petition, filed March 6,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 6,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/04/11

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction for Appl. No 08/688488 : 7323298

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)

Should the change(s)
Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: All changes apply. The request for issuing the above identified corrections(s) is

hereby approved

/Dave Nguyen/ 1634
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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5766008 | 1998-06-16 | 08688665 | 1996-07-29 | |

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

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Stefan V. Stein/ | Date (YYYY-MM-DD) | 2010-12-07 |
| Name | Stefan V. Stein | Registration Number | 29702 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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In re Patent No. 5766008 :
Issue Date: June 16,1998 :
Application No. 08688665 :DECISION GRANTING PETITION
Filed: July 29,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 3690.001 :

This is a decision on the electronic petition, filed December 7,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 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.

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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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5840080 | 1998-11-24 | 08689899 | 1996-08-15 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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| Sole Patentee | | | |
|--|----------------------|-------------------|------------|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature. | | | |
| Signature | /MARY DER OVANESIAN/ | Date (YYYY-MM-DD) | 2010-12-30 |
| Name | MARY DER OVANESIAN | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5840080 :
Issue Date: November 24,1998 :
Application No. 08689899 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 15,1996 :
Attorney Docket No. D79629 :

This is a decision on the electronic petition, filed December 30,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 30,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5908267 :
Issue Date: June 1,1999 :
Application No. 08690219 :DECISION GRANTING PETITION
Filed: July 26,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 715-1-055 :

This is a decision on the electronic petition, filed September 29,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 29,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) | | | | | | | | | | | | | | | | |
| 5908267 | 1999-06-01 | 08690219 | 1996-07-26 | 15-1-055 | | | | | | | | | | | | | | | | |
| <p>CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).</p> | | | | | | | | | | | | | | | | | | | | |
| <p>SMALL ENTITY <input checked="" type="checkbox"/> Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS <input type="checkbox"/> Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)</p> | | | | | | | | | | | | | | | | | | | | |
| <p>NOT Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td style="text-align: center;">(1551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td style="text-align: center;">(1552)</td> </tr> <tr> <td><input type="radio"/> 11 ½ year</td> <td style="text-align: center;">(1553)</td> </tr> </table> | | Fee | Code | <input type="radio"/> 3 ½ year | (1551) | <input type="radio"/> 7 ½ year | (1552) | <input type="radio"/> 11 ½ year | (1553) | <p>Small Entity</p> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Fee</td> <td style="text-align: center;">Code</td> </tr> <tr> <td><input type="radio"/> 3 ½ year</td> <td style="text-align: center;">(2551)</td> </tr> <tr> <td><input type="radio"/> 7 ½ year</td> <td style="text-align: center;">(2552)</td> </tr> <tr> <td><input checked="" type="radio"/> 11 ½ year</td> <td style="text-align: center;">(2553)</td> </tr> </table> | | | Fee | Code | <input type="radio"/> 3 ½ year | (2551) | <input type="radio"/> 7 ½ year | (2552) | <input checked="" type="radio"/> 11 ½ year | (2553) |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (1551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (1552) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 11 ½ year | (1553) | | | | | | | | | | | | | | | | | | | |
| Fee | Code | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 3 ½ year | (2551) | | | | | | | | | | | | | | | | | | | |
| <input type="radio"/> 7 ½ year | (2552) | | | | | | | | | | | | | | | | | | | |
| <input checked="" type="radio"/> 11 ½ year | (2553) | | | | | | | | | | | | | | | | | | | |
| <p>SURCHARGE The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>MAINTENANCE FEE (37 CFR 1.20(e)-(g)) The appropriate maintenance fee must be submitted with this petition.</p> | | | | | | | | | | | | | | | | | | | | |
| <p>STATEMENT THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED</p> | | | | | | | | | | | | | | | | | | | | |
| <p>THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES</p> <p>37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."</p> <p>I certify, in accordance with 37 CFR 1.4(d)(4) that I am</p> | | | | | | | | | | | | | | | | | | | | |
| <ul style="list-style-type: none"> <input checked="" type="radio"/> An attorney or agent registered to practice before the Patent and Trademark Office <input type="radio"/> A sole patentee <input type="radio"/> A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees. <input type="radio"/> A joint patentee; all of whom are signing this e-petition <input type="radio"/> 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 | /Paul R. Matri, Reg.# 63701/ | Date (YYYY-MM-DD) | 2011-09-29 |
| Name | Paul Matri | Registration Number | 63701 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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.
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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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5939118 | 1999-08-17 | 08691744 | 1996-08-02 | 2693-002-05 |

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

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Joshua King/ | Date (YYYY-MM-DD) | 2011-10-12 |
| Name | JOSHUA KING | Registration Number | 35570 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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In re Patent No. 5939118 :
Issue Date: August 17, 1999 :
Application No. 08691744 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 2, 1996 :
Attorney Docket No. 3424 :

This is a decision on the electronic petition, filed October 12, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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MILLER NASH LLP
601 UNION STREET
SUITE 4400
SEATTLE WA 98101-2352

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OFFICE OF PETITIONS

In re Application of :
James P. Cox et al :
Application No. 08/691,744 : DECISION ON REQUEST FOR REFUND
Filed: August 2, 1996 :
Attorney Docket No. 3424 :

This is a decision on the Request For Refund filed October 19, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that “The undersigned, as attorney of record for the patentees identified above, with respect to the instant patent, hereby requests that the \$4,005.00 payment for the 11.5-year maintenance fee and accompanying surcharge after expiration (unintentional) as filed on October 12, 2011, be refunded pursuant to 37 CFR § 1.26(a) in view of the expiration of Patentees’ patent.”

Applicant further states that “The earliest filed application (namely, United States Patent Application No. 06/758,086), to which the instant patent claimed priority under 35 U.S.C. §120, was filed on June 24, 1985. Pursuant to 35 U.S.C. §154(a)(2), “Subject to the payment of fees under this title, such grant shall be for a term beginning on the date on which the patent issues and ending 20 years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, from the date on which the earliest such application was filed.”

Applicant also states that “Given the above language of 35 U.S.C. §154(a)(2), the expiration date of the instant patent was June 24, 2005 – twenty (20) years from the earliest priority filing date claimed under Section 120.

In view of the above, the request for refund is granted.

Application No. 08/691,744
Patent No. 5,939,118

-2-

As authorized, the total of \$4,005 (11.5 year maintenance fee and surcharge after expiration (unintentional)) fee submitted on October 12, 2011, has been credited to petitioner's credit card account as it is the method in which the fee was paid.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

GRAYBEAL JACKSON LLP
JOSHUA KING
400 – 108TH AVENUE NE, SUITE 700
BELLEVUE, WA 98004



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In re Patent No. 5972023 :
Issue Date: October 26,1999 :
Application No. 08692127 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 5,1996 :
Attorney Docket No. 23660-00603 :

This is a decision on the electronic petition, filed February 28,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 28,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5972023 | 1999-10-26 | 08692127 | 1996-08-05 | |

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

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /John N. Coulby/ | Date (YYYY-MM-DD) | 2012-02-28 |
| Name | John N. Coulby | Registration Number | 43565 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,734,672 | 1998-03-31 | 08/692,600 | 1996-08-06 | 247080-000005USPT |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|---------------------------------------|---------------------|------------|
| Signature | /Daniel J. Burnham - Reg. No. 39,618/ | Date (YYYY-MM-DD) | 2010-09-20 |
| Name | Daniel J. Burnham | Registration Number | 39618 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5734672 :
Issue Date: March 31, 1998 :
Application No. 08692600 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 6, 1996 :
Attorney Docket No. CUTT-005 :

This is a decision on the electronic petition, filed September 20, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 6266640 | 2001-07-24 | 08692619 | 1996-08-06 | 37/02 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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| Patent Practitioner | | | |
|--|--------------------|---------------------|------------|
| A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature | | | |
| Signature | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-01 |
| Name | Kendal M. Sheets | Registration Number | 47077 |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6266640 :
Issue Date: July 24,2001 :
Application No. 08692619 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 6,1996 :
Attorney Docket No. 37/02 :

This is a decision on the electronic petition, filed October 4,2010 ,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 October 4,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5781386 | 1998-07-14 | 08692928 | 1996-07-30 | 9620823 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
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SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
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- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|--------------------|----------------------------|------------|
| Signature | /Brian W. Hameder/ | Date (YYYY-MM-DD) | 2010-09-17 |
| Name | Brian W. Hameder | Registration Number | 45613 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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.



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Alexandria, VA 22313-1450
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In re Patent No. 5781386 :
Issue Date: July 14,1998 :
Application No. 08692928 :DECISION GRANTING PETITION
Filed: July 30,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 3312-1000.1 :

This is a decision on the electronic petition, filed September 17,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 17,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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OFFICE OF PETITIONS

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

In re Reissue Patent No. Re.36,588 :
Reissue date: February 29, 2000 :
Reissue Application No. 08/693,799 :
Filed: August 1, 1996 :
Original Patent No. 5,419,600 :
Original Issue Date: May 20, 1995 :
Attorney Docket No. 1251585 :
For: SNOW REMOVAL TOOL :

ON PETITION

This is a decision on the petition, filed April 11, 2011, captioned under 37 CFR 1.181 or in the alternative, under 37 CFR 1.183 to suspend 37 CFR 1.377.

The petition will be treated under 37 CFR 1.377, as a request to accept and record the 7 ½ year and the 11 ½ year maintenance fees for the above-identified patent.

The petition is **granted**.

The showing is that petitioners timely submitted the correct payments for the above-identified reissue patent, but inadvertently supplied the mandatory identifiers set forth in 37 CFR 1.366(c) for the original patent, and not, as required by this rule, the mandatory identifiers for this reissue patent. However, under the facts of this case, and in light of USPTO records showing the original patent was superseded by the reissue, the originally proffered payments, on petition under 37 CFR 1.377, will be construed as timely offers to pay the maintenance fees which were then due in this reissue patent. Office financial records will be modified accordingly.

The current petition fee under 37 CFR 1.377(b) is \$200.00. Petitioners have paid \$130.00. Pursuant to petitioners' authorization, deposit account no. 13-0439 will be charged the \$70.00 balance due. The petition fee is required due to petitioners' error in not properly identifying the reissue patent.

This reissue patent file is being returned to the Files Repository.

Telephone inquiries relevant to this decision should be made to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5782924 | 1998-07-21 | 08694467 | 1996-08-08 | LJO-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

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Raymond Wagenknecht/ | Date (YYYY-MM-DD) | 2010-12-21 |
| Name | Raymond Wagenknecht | Registration Number | 50948 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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
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In re Patent No. 5782924 :
Issue Date: July 21,1998 :
Application No. 08694467 :DECISION GRANTING PETITION
Filed: August 8,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 215780 :

This is a decision on the electronic petition, filed December 22,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 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.



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P.O. Box 1450
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In re Patent No. 5991374 :
Issue Date: November 23,1999 :
Application No. 08694854 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 8,1996 :
Attorney Docket No. IHCS-07 :

This is a decision on the electronic petition, filed January 6,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,991,374 | 1999-11-23 | 08694854 | 1996-08-08 | IHCS-07 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /David W. Dorton/ | Date (YYYY-MM-DD) | 2012-01-06 |
| Name | David W. Dorton | Registration Number | 51625 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Patent No. 5,955,733 :
Issue Date: September 21, 1999 :
Application No. 08/695,508 :
Filed: August 12, 1996 :
Attorney Docket No. 2348/46101 :

NOTICE

This is a notice regarding your communication filed May 6, 2011 which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) May 6, 2010.

The request is **DISMISSED**.

The request for acceptance of a fee deficiency submission under 37 CFR 1.28 (c) is dismissed because the request is not signed by a proper party. Counsel is encouraged to note 37 CFR 1.33(b) which reads:

(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.

However, the Letter of Assertion submitted on May 6, 2011, to remove small entity status is accepted as it was signed by a proper party. Therefore, all future fees paid in this patent must be paid at the large entity rate.

Applicant is given **ONE MONTH** to submit a properly signed request under 37 CFR 1.28(c) listing 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).

Application No. 08/695,508
Patent No. 5,955,733

-2-

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/ebs/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

cc:

**DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB**



P. Louise T. Gomez
57 Cavendish Crescent
Brampton ON L6T1Z-3 CA CANADA

MAILED
JUL 26 2011
OFFICE OF PETITIONS

In re Patent No. 5,711,425 :
Issue Date: January 27, 1998 : **DECISION ON PETITIONS**
Application No. 08/696,211 :
Filed: August 13, 1996 :
For: METHOD AND APPARATUS FOR :
INDICATING A DOSAGE OF MEDICINE :

This is a decision on the petition under 37 CFR 1.378(b), filed June 14, 2011, to accept an unavoidably delayed payment of a maintenance fee. This is also a decision petition under 37 CFR 1.378(c), filed July 11, 2011, to accept an unintentionally delayed payment of a maintenance fee

The patent issued January 27, 1998. The grace period for paying the 11.5 year maintenance fee expired on January 28, 2010.

In this instance, patentee argues, in essence, that her former legal representatives did not provide her with the proper information or guidance as to when the maintenance fee payments were due at the time the law firm's representation of patentee was discharged. Additionally, patentee asserts that she sent a letter by facsimile transmission to the USPTO requesting that the Office change the correspondence address to that of patentee. Patentee states that the USPTO did not update her correspondence address and mailed the 11.5 year maintenance fee reminder to her former legal representatives. Patentee avers that she was unaware of the due date for the 11.5 year maintenance fee because neither her former legal representatives nor the USPTO supplied her with a copy of the maintenance fee reminder.

Petition under 37 CFR 1.378(b)

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

- (1) the required maintenance fee set forth in § 1.20(e) through (g);

(2) the surcharge set forth in §1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The petition under 37 CFR 1.378(b) lacks requirement (3).

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word unavoidable . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its ratification being present. In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), *aff'd*, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable.” Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

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. 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 determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably

prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his or her obligation to take appropriate steps to ensure the timely payment of such maintenance fees.

To the extent that patentee relied upon her former legal representative to inform her of the due dates for payment of the maintenance fees, such reliance *per se* does not provide patentee with a showing of unavoidable delay. The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the patentee, and patentee is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). Specifically, delay caused by the mistakes or negligence on the part of patentee's voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133. See California Med. Prod. v. Technol Med. Prod., 921 F. Supp. 1219, 1259 (D. Del. 1995). Patentee is reminded that the failure of communication between patentee and counsel is not unavoidable delay. In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

The Office reminds patentee that under the statutes and regulations, the USPTO has no duty to notify a patent owner of the requirement to pay maintenance fees or to notify the patentee when the maintenance fee is due. While the Office mails maintenance fee reminders strictly as a courtesy, it is solely the responsibility of the patent owner to ensure that the maintenance fee is paid timely to prevent expiration of the patent. The failure to receive a maintenance fee reminder does not relieve the patentee of the obligation to timely pay the maintenance fee, nor will it constitute unavoidable delay if the patentee seeks reinstatement under the regulation. Rydeen v. Quigg, 748 F. Supp. 900, 905 (D.D.C. 1990). Moreover, a patentee, who is required by 35 U.S.C. 41(c)(1) to pay the third maintenance fee within 11 years and six months of the patent grant, or face expiration of the patent, is not entitled to any notice beyond that provided by publication of the statute. Rydeen, 748 F. Supp. at 906.

The Office further notes that the Letters Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While the record is unclear if patentee ever read the Notice, patentee's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay. See Ray v. Lehman, 55 F. 3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The mere publication of the statute was sufficient notice to patentee. Rydeen, F. Supp. at 906. Furthermore, patentee could have contacted the USPTO and inquired as to the timing for and payment of the maintenance fees. Rather, it appears that patentee relied solely on her former legal representatives and the USPTO to notify her of the due date for the 11.5 year maintenance fee payment and did not take any further steps on her own to ensure that the maintenance fee was paid timely.

As previously stated, 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. The record reveals that patentee was unaware of the due date for the timely payment of the 11.5 year maintenance

fee. Unfortunately, the delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure does not constitute "unavoidable" delay. 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). Moreover, it does not appear that patentee had a reliable system in place to ensure prompt payment of the maintenance fee.

As the record discloses that patentee did not take adequate 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 payment of the maintenance fee on the basis of unavoidable delay. The showing of record is inadequate to establish unavoidable delay, and therefore, the petition under 37 CFR 1.378(b) is **dismissed**.

Petition under 37 CFR 1.378(c)

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 filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e) and include:

- (1) a statement that the delay was unintentional;
- (2) payment of the appropriate maintenance fee, unless previously submitted; and,
- (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Furthermore, patentee paid the appropriate maintenance fee due at 11.5 years and the required surcharge set forth in 37 CFR 1.20(i)(2). Accordingly, the petition under 37 CFR 1.378(c) is **granted**. The maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries should be directed to the undersigned at 571-272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5753217 | 1998-05-19 | 08696405 | 1996-08-14 | O155.12-0001 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /David R. Fairbairn/ | Date (YYYY-MM-DD) | 2010-09-14 |
| Name | David R. Fairbairn | Registration Number | 26047 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5753217 :
Issue Date: May 19,1998 :
Application No. 08696405 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 14,1996 :
Attorney Docket No. C489.12-0001 :

This is a decision on the electronic petition, filed September 14,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NOV 28 2011

Rudy Ng
Bozicevic, Field & Francis LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303

In re Patent Term Extension Application of :
U.S. Patent No. 5,817,028 : Decision on Petition to
Issue Date: October 6, 1998 : Waive EFS Legal Framework Prohibition
U.S. Application No. 08/696987 : Regarding Filing Initial Application
PTE Filing Date: December 3, 2010 : Under 35 U.S.C. § 156
For: Method and Device for the Provocation :
Of Air Passage Narrowing and/or the Induction :
of Sputum :

The above-identified application has been forwarded to the Office of Patent Legal Administration in the United States Patent and Trademark Office (the "Office") for consideration of a petition under 37 C.F.R. § 1.182 to waive the prohibition in the legal framework of the Office's Electronic Filing System (EFS), which forbids filing of an initial application for patent term extension under 35 U.S.C. § 156 via EFS.

The petition is granted because the requirements of 37 C.F.R. § 1.740 have now been met and the statutory requirements of 35 U.S.C. § 156(d)(1)(A)-(E) were met upon filing.

Background and Analysis

On December 3, 2010, Petitioner filed an initial application for patent term extension ("PTE application") pursuant to the provisions of 35 U.S.C. § 156(d)(1) via the Office EFS. Petitioner's EFS acknowledgement receipt indicates that a "PTE Interim Patent Extension Filed."

On June 14, 2011, Petitioner filed a request for status of the application seeking a status inquiry about action on the PTE application.

Following the status inquiry, Petitioner spoke to Office staff several times regarding the provision in the EFS legal framework which prohibits initial filings of applications for patent term extension under 35 U.S.C. 156 via EFS. Office staff directed Petitioner to the Federal Register notice, 74 Fed. Reg. 55202, October 27, 2009, which provides information on this prohibition. The Office directed Petitioner to file a petition to seek waiver of the prohibition and to comply with the additional filings requirements in 37 C.F.R. § 1.740(b).

Petitioner is seeking waiver of the EFS legal framework prohibition and an opportunity to comply with the filing requirements of 37 C.F.R. § 1.740(b).

The Office is treating the present petition under 37 C.F.R. § 1.182, which addresses all situations not specifically provided for in other regulations. Because Petitioner has now complied with 37 C.F.R. 1.740(b) and had timely filed an application for patent term extension which complies with the requirements in 35 U.S.C. § 156(d)(1)(A)-(E), the petition is granted.

Conclusion

The petition under 37 C.F.R. § 1.182 is granted.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 37 C.F.R. § 1.17(f). The required petition fees have been received for the present petition.

Telephone inquiries with regard to this communication should be directed to Mary C. Till at (571) 272-7755.



Mary C. Till
Senior 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

RE: ARIDOL (mannitol)
Docket No.: FDA-

Attention: Beverly Friedman

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5724679 | 1998-03-10 | 08698022 | 1996-08-15 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

| | | | |
|--|-----------------|-------------------|------------|
| 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 | /Gerald L Hans/ | Date (YYYY-MM-DD) | 2010-08-20 |
| Name | Gerald L Hans | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5724679 :
Issue Date: March 10,1998 :
Application No. 08698022 :DECISION GRANTING PETITION
Filed: August 15,1996 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 11622 :

This is a decision on the electronic petition, filed August 20,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5906960 | 1999-05-25 | 08698122 | 1996-08-15 | SANJAY1A |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

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NOT Small Entity

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| <input type="radio"/> | Fee | Code |
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| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

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|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Anne M. Kornbau/ | Date (YYYY-MM-DD) | 2011-05-27 |
| Name | Anne M. Kornbau | Registration Number | 25884 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5906960 :
Issue Date: May 25,1999 :
Application No. 08698122 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 15,1996 :
Attorney Docket No. SANJAY-1A :

This is a decision on the electronic petition, filed May 27,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 27,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**PATENT ADMINISTRATOR
TESTA HURWITZ & THIBEAULT
HIGH STREET TOWER
125 HIGH STREET
BOSTON MA 02110**

**MAILED
FEB 15 2011
OFFICE OF PETITIONS**

In re Application of : Paper No. 20
Stuart E. Madnick et al. :
Patent No. 5,913,214 :
Application No. 08/698,166 :
Filed: August 08, 1996 :
Attorney Docket No. **MIT-061(5473)** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

The 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.

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.

Application No. 08/698,166

Page 2

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 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.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b).

Please send a corrected copy of the 3.73b with the correct and updated real and frame.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **DANIEL O'BRIEN**
INTELLECTUAL PROPERTY MANAGER
MASSACHUSETTS INSTITUTE OF TECHNOLOGY
TECHNOLOGY LICENSING OFFICE
FIVE CAMBRIDGE MA 02142-1493



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

SEP 26 2011

OFFICE OF PETITIONS

**GRANT L HUBBARD
10711 EAST MERCURY DRIVE
APACHE JUNCTION AZ 85220**

In re Patent No. 6,082,159 :
Issue Date: July 4, 2000 :
Application No. 08/699,262 : **ON PETITION**
Filed: August 19, 1996 :
Attorney Docket No. LARSEN-O1A :

This is a decision on the petition under 37 CFR 1.378(c), filed August 29, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The above-identified patent issued on July 4, 2000. Therefore, the set forth period in 35 U.S.C. § 41(b) for paying the seven and one-half year maintenance fee expired on July 5, 2008.

A petition under 37 CFR 1.378(c) must be filed within twenty-four months after the six month grace period specified in 35 USC 41(b). The six month grace period for the instant patent expired at midnight on July 4, 2008. Accordingly, an unintentional petition to reinstate the instant patent must have been submitted no later than July 4, 2010. Since the petition was not timely filed, the instant patent will not be considered for reinstatement under the unintentional provisions of 37 CFR 1.378(c).

35 U.S.C. § 41(c)(1) authorizes the Commissioner to accept a delayed maintenance fee payment within twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) if the delay is shown to have been unintentional, and authorizes the Commissioner to accept a delayed maintenance fee payment at any time if the delay is shown to have been unavoidable. Thus, 35 U.S.C. § 41(c)(1) does not authorize the Commissioner to accept a delayed maintenance fee payment later than twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b), the Commissioner cannot accept a delayed maintenance fee payment for the above-identified patent under 37 CFR 1.378(c).

Should petitioner wish to pursue reinstatement of the above-identified patent on the basis of unavoidable delay, petitioner should file a petition under 35 U.S.C. § 41(c) and 37 CFR 1.378(b), which must be accompanied by (1) an adequate, verified showing that the

Patent No. 6,082,159

delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the \$1705 submitted with the instant petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

In the present petition, there is no indication that the person signing the instant petition is authorized to practice before the United States Patent and Trademark Office, or given a power of attorney or authorization of agent to prosecute the above-identified application. 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.

Furthermore, there is no evidence as to whether the signer is an assignee, or other party in interest.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Lastly, the change of address request submitted with the instant petition is illegible. A legible version should be submitted in response to 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

Patent No. 6,082,159

The centralized facsimile number is **(571) 273-8300**.

General inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).


for Anthony Knight
Director
Office of Petitions

cc : Kirk A. Fisher
849 West Arbor Ridge Drive
Green Valley, Arizona 85614-3254



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**GRANT L. HUBBARD
10711 EAST MERCURY DRIVE
APACHE JUNCTION AZ 85220**

**MAILED
FEB 28 2012
OFFICE OF PETITIONS**

In re Patent No. 6,082,159 :
Issue Date: July 4, 2000 :
Application No. 08/699,262 : **DECISION ON REQUEST FOR REFUND**
Filed: August 19, 1996 :
Attorney Docket No. LARSEN-O1A :

This is a decision on the Request For Refund received November 7, 2011.

The request is **GRANTED**.

Applicant request a refund in the amount of \$1,705.00 that was paid with the petition under 37 CFR 1.378(c) on August 29, 2011. The petition was dismissed on September 26, 2011.

The decision mailed on September 26, 2011, informed applicant that "If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the \$1,705 submitted with the instant petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request."

In view of the above, the request for refund is granted.

A total of \$1,705.00 is being credited to petitioner's credit card account as it is the method in which the fee was paid.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

**KIRK A. FISHER
FISHER INDUSTRIES, INC.
849 WEST ARBOR RIDGE DRIVE
GREEN VALLEY, AZ 85614-3254**

UNITED STATES PATENT AND TRADEMARK OFFICE



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

MAILED
NOV 02 2011
OFFICE OF PETITIONS

In re Patent No. 5,919,234 :
Issued: July 6, 1999 :
Application No. 08/699,673 : **ON PETITION**
Filed: August 19, 1996 :
Attorney Docket Number: 5525-A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 11, 2011 and October 13, 2011.

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 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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Stephen J. Foss
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 06/27/11

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 08699896 Patent No.: 5980948

CofC mailroom date: 06/10/11

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

Note: Should Claims be approved

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- Approved**
- Approved in Part**
- Denied**

All changes apply.

Specify below which changes **do not** apply.

State the reasons for denial below.

Comments: _____
Robert A. Wax
Supervisory Patent Examiner
Technology Center 1600



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ATTN: MIMI YUEN
GOLDEN BRIDGE TECHNOLOGY INC.
185 ROUTE 36
WEST LONG BRANCH NJ 07764

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Patent No. 5,742,637
Issue Date: April 21, 1998
Application No. 08/700,012
Filed: August 20, 1996
Attorney Docket No. GBTI14US

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed September 8, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 21, 2010, for failure to pay the eleven 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 the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: ELMER YEN
24 JAMES WAY,
EATOLNTOWN, NJ 07724

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5991771 | 1999-11-23 | 08700487 | 1997-07-03 | 33227/777001 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

| The Assignee of record of the entire interest | | | |
|--|-----------------|-------------------|------------|
| Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest | | | |
| Signature | /Aaron Brodsky/ | Date (YYYY-MM-DD) | 2012-02-09 |
| Name | Aaron Brodsky | | |
| Enter Reel and Frame Number | | Remove | |
| Reel Number | 008827 | Frame Number | 0887 |
| Enter Reel and Frame Number | | Remove | |
| Reel Number | 027640 | Frame Number | 0496 |
| Enter Reel and Frame Number | | Remove | |
| Reel Number | 027640 | Frame Number | 0543 |
| Click ADD for additional Reel Number and Frame Number | | Add | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Alexandria, VA 22313-1450
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In re Patent No. 5991771 :
Issue Date: November 23, 1999 :
Application No. 08700487 :DECISION GRANTING PETITION
Filed: July 3, 1997 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 1909.2.7D :

This is a decision on the electronic petition, filed February 10, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 10, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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ATTN: MIMI YUEN
GOLDEN BRIDGE TECHNOLOGY INC.
185 ROUTE 36
WEST LONG BRANCH, NJ 07764

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Patent No. 5,715,276 :
Issue Date: February 3, 1998 :
Application No. 08/701,440 : **ON PETITION**
Filed: August 22, 1996 :
Patentee(s) Jimmy C. Tran et al :

This is a decision on the petition under 37 CFR 1.378(c), filed September 8, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Elmer Yuen
24 James Way
Eatontown, NJ 07724



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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L F HILBERS
POST OFFICE BOX 19393
HOMEWOOD AL 35219-9393

MAILED
AUG 08 2011
OFFICE OF PETITIONS

In re Patent No. 5,893,395 :
Issue Date: April 13, 1999 :
Application No. : 08/702,431 : ON PETITION
Filed: January 11, 1996 :
Attorney Docket No.: P-360-C :

This is a decision on the petition under 37 CFR 1.378(c), filed June 17, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 13, 2011 for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries concerning this matter may be directed to Jose G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,749,668 | 1998-05-12 | 08703352 | 1996-08-21 | GEM-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

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.

| | | | |
|-----------|--------------------|-------------------|------------|
| Signature | /Gary E. McIlvain/ | Date (YYYY-MM-DD) | 2011-06-21 |
| Name | Gary E. McIlvain | | |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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
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In re Patent No. 5749668 :
Issue Date: May 12, 1998 :
Application No. 08703352 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 21, 1996 :
Attorney Docket No. GEM-001 :

This is a decision on the electronic petition, filed July 5, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 5, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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In re Patent No. 5727214 :
Issue Date: March 10,1998 :
Application No. 08703385 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 26,1996 :
Attorney Docket No. A-58982-1/GS :

This is a decision on the electronic petition, filed January 20,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5909207 | 1999-06-01 | 08703407 | 1996-08-26 | 165862USMF |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Bradley D. Lytle/ | Date (YYYY-MM-DD) | 2011-09-21 |
| Name | Bradley D. Lytle | Registration Number | 40073 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Alexandria, VA 22313-1450
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In re Patent No. 5909207 :
Issue Date: June 1, 1999 :
Application No. 08703407 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 26, 1996 :
Attorney Docket No. 7805-001-7 :

This is a decision on the electronic petition, filed September 21, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 21, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,778,479 | 1998-07-14 | 08/703,658 | 1996-08-27 | R1134-50 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

| | | | |
|--|--------------------|--------------------------|------------|
| 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 | /Lawrence A. Raia/ | Date (YYYY-MM-DD) | 2010-10-19 |
| Name | Lawrence A. Raia | | |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5778479 :
Issue Date: July 14,1998 :
Application No. 08703658 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 27,1996 :
Attorney Docket No. LR-100 :

This is a decision on the electronic petition, filed October 19,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 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.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5783316 | 1998-07-21 | 08703914 | 1996-08-22 | IL-9072B |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /James S. Tak, #46367/ | Date (YYYY-MM-DD) | 2011-06-28 |
| Name | James S. Tak | Registration Number | 46367 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5783316 :
Issue Date: July 21,1998 :
Application No. 08703914 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 22,1996 :
Attorney Docket No. LLNL-IL9072B :

This is a decision on the electronic petition, filed June 28,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 28,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
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STEPHEN E REITER
GRAY CARY WARE & FRIENDEDRICH
4365 EXECUTIVE DRIVE, SUITE 1600
SAN DIEGO CA 92121

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Patent No. 5,853,622 :
Issued: 12/29/1998 :
Application No. 08/704,467 : **DECISION ON PETITION**
Filed: 08/28/1996 :
Attorney Docket No. P41-90273 :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182 TO CANCEL THE CLAIMS OF PRIORITY" filed January 14, 2010.

The petition is **DISMISSED**.

The filing of a petition is inappropriate to delete a benefit claim. In this regard, the deletion of benefit claims would be by reissue. However, patentee is reminded that the patent term cannot be shortened by deleting the benefit claims via the reissue process. Moreover, a request for Certificate of Correction is inappropriate because it would require examination again to determine if there is any intervening art. Therefore, it would not fall within the preview of 35 U.S.C. 255. Accordingly, the petition under 37 CFR 1.182 is dismissed.

The \$400.00 petition fee is acknowledged. The \$130.00 fee submitted with the petition is unnecessary and will be refunded in due course.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278



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P.O. Box 1450
Alexandria, VA 22313-1450
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STEPHEN E REITER
GRAY CARY WARE & FRIENDEDRICH
4365 EXECUTIVE DRIVE, SUITE 1600
SAN DIEGO CA 92121

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Patent No. 5,853,622
Issued: 12/29/1998
Application No. 08/704,467
Filed: 08/28/1996
Attorney Docket No. P41-90273

DECISION ON PETITION

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182 TO CANCEL THE CLAIMS OF PRIORITY" filed January 14, 2010.

The petition is **DISMISSED**.

The filing of a petition is inappropriate to delete a benefit claim. In this regard, the deletion of benefit claims would be by reissue. However, patentee is reminded that the patent term cannot be shortened by deleting the benefit claims via the reissue process. Moreover, a request for Certificate of Correction is inappropriate because it would require examination again to determine if there is any intervening art. Therefore, it would not fall within the preview of 35 U.S.C. 255. Accordingly, the petition under 37 CFR 1.182 is dismissed.

The \$400.00 petition fee is acknowledged. The \$130.00 fee submitted with the petition is unnecessary and will be refunded in due course.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278



UNITED STATES PATENT AND TRADEMARK OFFICE

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**THOMAS A. BELUSH
LEYDIG, VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
CHICAGO, IL 60601-6780**

MAILED

JUL 05 2011

OFFICE OF PETITIONS

Patent No. 5,810,856
Application No. 08/705,271
Filed: August 29, 1996
Issued: September 22, 1998
Attorney Docket No. P96.0549

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:
:
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ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed June 9, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 23, 2010 for failure to pay the 11 ½ maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: RIMVYDAS TVERAS
8945 WEST 103RD ST
PALOS HILLS, IL 60465



UNITED STATES PATENT AND TRADEMARK OFFICE

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**CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110**

MAILED

APR 04 2011

OFFICE OF PETITIONS

| | | |
|----------------------------------|---|-------------|
| Patent No. 5,835,868 | : | |
| Application No. 08/705,652 | : | |
| Filed: August 30, 1996 | : | ON PETITION |
| Issued: November 10, 1998 | : | |
| Attorney Docket No. 2008646-0001 | : | |

This is a decision on the petition under 37 CFR 1.378(c), filed March 8, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued November 10, 1998. The last day of the grace period for paying the 11.5-year maintenance fee was November 10, 2010. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions



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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

MAILED
OCT 21 2011
OFFICE OF PETITIONS

In re Patent No. 5,769,979 :
Issue Date: June 23, 1998 :
Application No. 08/706,080 : **NOTICE**
Filed: August 30, 1996 :
Attorney Docket No. P-01332 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 22, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,731,008 | 1998-03-24 | 08/706,218 | 1996-08-30 | 18257.25 |

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

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Michael F. Krieger/ | Date (YYYY-MM-DD) | 2011-03-15 |
| Name | Michael Krieger | Registration Number | 35232 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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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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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which 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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In re Patent No. 5731008 :
Issue Date: March 24,1998 :
Application No. 08706218 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: August 30,1996 :
Attorney Docket No. 8872.CIP.DIV :

This is a decision on the electronic petition, filed March 15,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 15,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5709168 | 1998-01-20 | 08706770 | 1996-09-30 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /bruce a jagger/ | Date (YYYY-MM-DD) | 2011-01-24 |
| Name | Bruce A. Jagger | Registration Number | 19968 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5709168 :
Issue Date: January 20,1998 :
Application No. 08706770 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 30,1996 :
Attorney Docket No. :

This is a decision on the electronic petition, filed January 24,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 24,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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Alexandria, VA 22313-1450
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In re Patent No. 5933742 :
Issue Date: August 3, 1999 :
Application No. 08708236 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 6, 1996 :
Attorney Docket No. B-3228-61566 :

This is a decision on the electronic petition, filed September 23, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,933,742 | 1999-08-03 | 08/708,236 | 1996-09-06 | LKSP0070USA |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|---------------|---------------------|------------|
| Signature | /Winston Hsu/ | Date (YYYY-MM-DD) | 2011-09-23 |
| Name | Winston Hsu | Registration Number | 41526 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

MAILED

OCT 25 2011

OFFICE OF PETITIONS

In re Patent No. 5,868,881 :
Issue Date: February 9, 1999 :
Application No. 08/708,330 :
Filed: September 4, 1996 :
Attorney Docket No. P-01333 :

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.

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.

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

cc: Derrick A. Pizarro
Cox Smith Matthews Incorporated
112 East Pecan Street, Suite 1800
San Antonio, TX 78205-1536

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,747,377 | 1998-05-05 | 08/709,169 | 1996-09-06 | LKSP0119USA |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
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- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|---------------|---------------------|------------|
| Signature | /Winston Hsu/ | Date (YYYY-MM-DD) | 2012-04-03 |
| Name | Winston Hsu | Registration Number | 41526 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5747377 :
Issue Date: May 5, 1998 :
Application No. 08709169 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 6, 1996 :
Attorney Docket No. B-3230-61567 :

This is a decision on the electronic petition, filed April 3, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 3, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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PATTON BOGGS LLP
1801 CALIFORNIA STREET
SUITE 4900
DENVER CO 80202

MAILED
MAY 31 2011
OFFICE OF PETITIONS

In re Patent No. 5,878,345
Issue Date: March 2, 1999 :
Application No. 08/709,264 : DECISION ON PETITION
Filed: September 6, 1996 :
Patentee: Ray, et al. :

This is a decision on the petition to accept the unavoidably delayed payment of the maintenance fee under 37 CFR 1.378(b), filed May 6, 2009.

The petition under 37 CFR 1.378(b) is **DISMISSED**.

The above-identified patent issued March 2, 1999. Accordingly, the third maintenance fee could have been paid during the period from March 2, 2010 through September 2, 2010 without surcharge, or with a late payment surcharge of \$65 during the period from September 3, 2010 through March 2, 2011. No maintenance fee having been received, the patent expired on March 3, 2011.

Evidence Presented on Petition:

Petitioner states in full that "the person responsible for authorizing payment of the maintenance fee for the client never received the reminders from CPA Global and was unaware any fee was due until the Notice of Patent Expiration was received." No further explanation was given as to how the delayed payment of the maintenance fee was unavoidable.

Relevant Statutes, Rules and Regulations:

35 U.S.C. § 41(c)(1) states that:

The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

37 C.F.R. § 1.378(b) provides that:

Any petition to accept an unavoidably delayed payment of a maintenance fee must include:

- (1) The required maintenance fee set forth in §1.20(e) through (g);
- (2) The surcharge set forth in §1.20(i)(1); and
- (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Opinion:

§ 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay. See id.; 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).

Delay resulting from petitioner's lack of receipt of any maintenance fee reminder(s), or petitioner's being unaware of the need for maintenance fee payments, does not constitute "unavoidable" delay.¹ Under the statutes and regulations, the Office has no duty to notify patentee of the requirement to pay maintenance fees or to notify patentee when the maintenance fee

¹ See In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)), aff'd, Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd, 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992). See also "Final Rules for Patent Maintenance Fees," 49 Fed. Reg. 34716, 34722-23 (Aug. 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

is due. While the Office mails maintenance fee reminders strictly as a courtesy, it is **solely the responsibility of the patentee to ensure that the maintenance fee is timely paid to prevent expiration of the patent.** The failure to receive the reminder does not relieve the patentee of the obligation to timely pay the maintenance fee, nor will it constitute unavoidable delay if the patentee seeks reinstatement under the regulation.² Moreover, a patentee who is required by 35 USC 41(c)(1) to pay a maintenance fee is not entitled to any notice beyond that provided by publication of the statute.³

Furthermore, the Letters Patent contains a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While the record is unclear if petitioner ever read the Notice, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.⁴ The mere publication of the statute was sufficient notice to petitioner.

While petitioner may employ another to track the maintenance fee, this does not end the inquiry. It is required that petitioner provide evidence on the record that the party responsible for tracking the maintenance fee (here, CPA) had a system in place for this purpose and that this patent was entered into that system. Further, it is required that petitioner show that despite having this system in place, petitioner was unavoidably delayed in making the maintenance fee payment. For example, a delay resulting from an error (*e.g.*, a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the due exercise of due care. See MPEP 711.03(c)(III)(C)(2).

² Rydeen, 748 F. Supp at 905.

³ Id. at 906.

⁴ See Ray v. Lehman, 55 F. 3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1995).

Conclusion:

Any request for reconsideration of this decision refusing to accept the unavoidably delayed payment of the maintenance fee must be filed within **TWO MONTHS** of the mailing date of this decision. Anysuch petition for reconsideration must be accompanied by the \$400 petition fee set forth in § 1.17(f). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner pursuant to 37 CFR 1.378(b). Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Private information that petitioner does not wish to have made of public record should be redacted.

Petitioner may wish to consider filing a petition to accept the unintentionally delayed payment of the maintenance fee under 37 CFR 1.378(c). If petitioner so files, petitioner can apply the \$700 surcharge submitted for the instant petition towards the \$1640 surcharge required for the petition under 37 CFR 1.378(c).

Receipt of the \$700 surcharge and the \$4110 maintenance fee is acknowledged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5878345 | 1999-03-02 | 08709264 | 1996-09-06 | 013207.0143C1US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /James M. Graziano/ | Date (YYYY-MM-DD) | 2011-07-12 |
| Name | James M. Graziano | Registration Number | 28300 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5878345 :
Issue Date: March 2, 1999 :
Application No. 08709264 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 6, 1996 :
Attorney Docket No. 013207.0143C1US :

This is a decision on the electronic petition, filed July 12, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 12, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5771024 | 1998-06-23 | 08709275 | 1996-09-06 | 220/274 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Kendal M. Sheets/ | Date (YYYY-MM-DD) | 2010-10-18 |
| 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.



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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5771024 :
Issue Date: June 23,1998 :
Application No. 08709275 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 6,1996 :
Attorney Docket No. 220/274 :

This is a decision on the electronic petition, filed October 18,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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www.uspto.gov

PATTON BOGGS LLP
1801 CALIFORNIA STREET
SUITE 4900
DENVER CO 80202

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Patent No. 5,878,346 :
Issue Date: March 2, 1999 :
Application No. 08/709,417 :
Filed: September 6, 1996 :
Attorney Docket No: **013207.0110C1US** :

ON PETITION

This is a decision on the petition filed May 9, 2011, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The patent issued on March 2, 1999. The third maintenance fee due could have been paid during the period from March 2, 2010 to September 2, 2010 or, with a surcharge during the period from September 3, 2010 to March 2, 2011. Accordingly, this patent expired on March 2, 2011 for failure to timely remit the third maintenance fee.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(I)(1).

This petition lacks item (1) above.

Petitioner, asserts that the delay in timely payment of the maintenance fee was unavoidable since "the person responsible for authorizing payment of the maintenance fee for the client never received the reminders from CPA Global and was unaware any fee was due until the Notice Of Patent Expiration was received."

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay").¹ Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.² In this regard:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.³

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.⁴ That is, an adequate showing that the delay 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.⁵

¹Ray 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. 1989)).

²Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

³In 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). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

⁴Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

⁵Id.

Petitioner's arguments have been considered but are not persuasive.

The CPA Global reminder system was not reliable as it did not prevent the patent from lapsing for failure to pay the maintenance fees. Petitioner has not demonstrated (1) that there was an agreement between the patentee and CPA Global to track and or pay the maintenance fees and (2) assuming CPA Global was responsible for tracking and or paying the maintenance fees, that CPA Global exercised reasonable care in their duties with respect to this patent.

Petitioners have not indicated what if any procedures were in place for payment of the maintenance fee other than CPA Global was responsible for mailing reminder notices. As well, no arguments or supporting documentation has been provided to show what CPA Global's system was and why it didn't work in this instance.

As prudent and careful practitioners, adequate steps should have been taken to prevent the delay in the payment of the maintenance fees.

For all the reasons listed above, petitioner has not carried the burden of proof to establish to the satisfaction of the Commissioner that the delay was unavoidable. There is a distinct difference between an unavoidable delay which, had there been reasonable care exercised, could not have been prevented and one that was the result of a mistake. Since petitioner has not provided enough information for a determination that reasonable care was in fact exercised to ensure that the maintenance fee would be paid timely and that therein the delay was unavoidable, the argument fails.

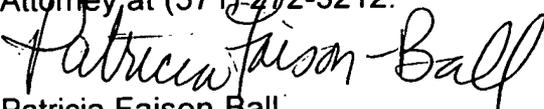
As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under the unavoidable standard, the petition will be dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney, at (571) 272-3212.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5878346 | 1999-03-02 | 08709417 | 1996-09-06 | 013207.0110C1US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /James M. Graziano/ | Date (YYYY-MM-DD) | 2011-07-12 |
| Name | James M. Graziano | Registration Number | 28300 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5878346 :
Issue Date: March 2, 1999 :
Application No. 08709417 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 6, 1996 :
Attorney Docket No. 013207.0110C1US :

This is a decision on the electronic petition, filed July 12, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 12, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,842,300 | 1998-12-01 | 08711173 | 1996-09-09 | P2047 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /F. David LaRiviere/ | Date (YYYY-MM-DD) | 2011-05-11 |
| Name | F. David LaRiviere | Registration Number | 27207 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5842300 :
Issue Date: December 1,1998 :
Application No. 08711173 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 9,1996 :
Attorney Docket No. :

This is a decision on the electronic petition, filed May 11,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 11,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,779,236 | 1998-07-14 | 08/711,947 | 1996-09-06 | 105006.63063US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|---------------------|---------------------|------------|
| Signature | /Michael H. Jacobs/ | Date (YYYY-MM-DD) | 2010-12-21 |
| Name | Michael H. Jacobs | Registration Number | 41870 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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.
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5779236 :
Issue Date: July 14, 1998 :
Application No. 08711947 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 6, 1996 :
Attorney Docket No. 13070/40011 :

This is a decision on the electronic petition, filed December 21, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 21, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5732496 | 1998-03-31 | 08712414 | 1996-09-11 | MDI 0513 PUS |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /John A. Artz/ | Date (YYYY-MM-DD) | 2011-02-03 |
| Name | John A. Artz | Registration Number | 25824 |
| <p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p> | | | |

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5732496 :
Issue Date: March 31, 1998 :
Application No. 08712414 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 11, 1996 :
Attorney Docket No. MDI-0513-PUS :

This is a decision on the electronic petition, filed February 3, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 3, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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POLSTER LIEDER WOODRUFF & LUCCHESI, L.C.
12412 POWERSCOURT DR., SUITE 200
ST. LOUIS, MO 63131-3615

MAILED

OCT 24 2011

OFFICE OF PETITIONS

In re Application of
Bruce E. Taber et al
Application No. 08/712,583
Filed: September 13, 1996
Attorney Docket No. SMCI 9941US

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:
:

NOTICE

This is in response to the paper filed September 23, 2011, which is being treated under 37 CFR 1.28(g)(2) requesting that status as a Small Entity be removed.

In accordance with the September 23, 2011 request, status as a Small Entity has been removed.


Irvin Dingle
Petition Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EUGENE LIEBERSTEIN
2151 LONG RIDGE ROAD
STAMFORD, CT 06903

MAILED

AUG 25 2011

OFFICE OF PETITIONS

In re Patent No. 5,914,185 :
Issue Date: June 22, 1999 :
Application No. 08/713,459 :
Filed: September 13, 1996 :
Patentee(s): Itzhak Shoher, et. al. :

ON PETITION

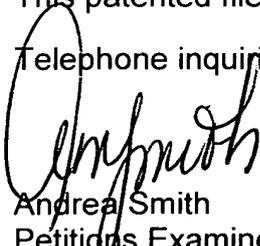
This is a decision on the petition under 37 CFR 1.378(c), filed on July 28, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

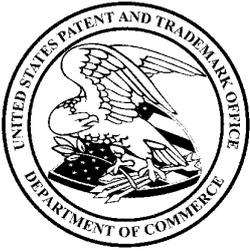
Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5819477 :
Issue Date: October 13, 1998 :
Application No. 08714589 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 16, 1996 :
Attorney Docket No. BNG :

This is a decision on the electronic petition, filed January 20, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,819,477 | 1998-10-13 | 08714589 | 1996-09-16 | |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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.

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 Garffney/ | Date (YYYY-MM-DD) | 2011-01-20 |
|------------------|-------------------|--------------------------|------------|

| | |
|-------------|----------------|
| Name | George Gaffney |
|-------------|----------------|

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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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) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,951,798 | 1999-09-14 | 08/715,328 | 1996-09-18 | 037327.43006US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

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Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
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SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|-----------|--------------------|---------------------|------------|
| Signature | /Jeffrey D. Sanok/ | Date (YYYY-MM-DD) | 2011-10-31 |
| Name | Jeffrey D. Sanok | Registration Number | 32169 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5951798 :
Issue Date: September 14,1999 :
Application No. 08715328 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 18,1996 :
Attorney Docket No. 037327.43006US :

This is a decision on the electronic petition, filed October 31,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 31,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JOSEPH FENLON
ONE METROPOLITIAN SQUARE #2920
ST LOUIS MO 63102

MAILED

OCT 03 2011

OFFICE OF PETITIONS

In re Patent No. 5,738,192 :
Issue Date: April 14, 1998 :
Application No. 08/715,439 : REQUIREMENT FOR INFORMATION
Filed: September 18, 1996 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.378(b), filed March 4, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a reply responding to the issues noted in more detail below must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b).

Petitioner contends that the above-captioned patent should be reinstated, in that the delay was unavoidable.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing a renewed petition to accept unavoidably delayed payment of a maintenance fee. In this instance, the fee required under 37 CFR 1.17(f) is \$400.00.

Extensions of time under 37 CFR 1.136(a) were permitted in and in response to the October 22, 2010 petition decision no extension of time fees were received. The response was received March 4, 2011 requiring a 3 months extension of time fee of \$1270.00. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fees totaling \$1905.00 . No consideration on the merits can be given that petition until the required fee is received.

Clarification of this matter is required were intended to accompany a petition related to U.S. Patent No. 5,170,942, they must be resubmitted along with a properly captioned petition and

facts appropriate to that file. Petitioner should note that the merits of any forthcoming petition would not be addressed absent a clear and unambiguous fee payment or authorization. It is further noted that a petition under 37 CFR 1.377 lies when a timely (i.e. during the window or grace period) payment is proffered to the USPTO, but not applied to the patent in question. 37 CFR 1.378 applies when the applicable fee was not proffered prior to expiry, and reinstatement is necessary.

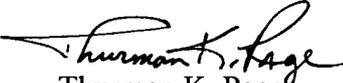
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-0602.


Thurman K. Page
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5780087 | 1998-07-14 | 08717764 | 1996-09-23 | FRTH-200 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| <input type="radio"/> | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /Edward_S_Sherman/ | Date (YYYY-MM-DD) | 2010-08-30 |
| Name | Edward S. Sherman | Registration Number | 43115 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5780087 :
Issue Date: July 14,1998 :
Application No. 08717764 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 23,1996 :
Attorney Docket No. FRTH-200 :

This is a decision on the electronic petition, filed August 30,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 30,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5844808 :
Issue Date: December 1,1998 :
Application No. 08718386 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: November 21,1996 :
Attorney Docket No. 1204.04US01 :

This is a decision on the electronic petition, filed February 8,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 8,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,844,808 | 1998-12-01 | 08718386 | 1996-11-21 | USE-667US |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- A joint patentee; all of whom are signing this e-petition
- The assignee of record of the entire interest

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Patent Practitioner

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature

| | | | |
|------------------|-------------------|----------------------------|------------|
| Signature | /Stephen J. Weed/ | Date (YYYY-MM-DD) | 2011-02-08 |
| Name | Stephen J. Weed | Registration Number | 45202 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only 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.



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Joseph B. Mendes
28701 SW 182 Ave.
Homestead, FL 33033

MAILED
APR 02 2012
OFFICE OF PETITIONS

In re Patent No. 5,779,392 :
Issue Date: July 14, 1998 : ON PETITION
Application No. 08/719,520 :
Filed: SYSTEMS FOR CONTAINING AND :
COLLECTING OIL SPILLS :

This in response to the petition under 37 CFR 1.378(b), filed January 11, 2012, to accept the delayed payment of the maintenance fees for the above-identified patent. By way of this communication, the Office is requesting more information from petitioner before a decision can be rendered on the petition.

The above-identified patent issued on July 14, 1998. The second maintenance fee could have been paid during the period from July 14, 2005 through January 17, 2006 or with a surcharge during the period from January 18, 2006 through July 14, 2006. Accordingly, the above-identified patent expired on July 15, 2006, for failure to timely remit the second maintenance fee. On January 11, 2012, petitioner filed the present petition under 37 CFR 1.378(b), requesting the acceptance of the late payment of the maintenance fees for the above-identified patent due at 7.5 and 11.5 years.

In the present petition, petitioner asserts: "Due to a series of catastrophic illnesses, which began in 2003, my ability to work was severely limited and resulted in the unavoidable delay in paying my patent maintenance fees." Petitioner provided a brief description of his health issues, accompanied by letters from his treating physicians and medical records.

A petition under 37 CFR 1.378(b) to accept late payment of a maintenance fee must include:

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in § 1.20(i)(1); and
- (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed

promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The 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.

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. 133. This is a very stringent standard. As stated in Section 711.03(c)(II)(C)(2) of the Manual of Patent Examining Procedure:

Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting 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). In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable.” Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Section 2590(I) of the Manual of Patent Examining Procedure for explains:

As 35 U.S.C. 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. [Ray v. Lehman, 55 F.3d 606, 609,

34 USPQ2d 1786, 1788 (Fed. Cir. 1995).] That is, an adequate showing that the delay in payment of the maintenance fee at issue was “unavoidable” within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. *Id.* Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

In view of the requirement to enumerate the steps taken to ensure timely payment of the maintenance fee, the patentee’s lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. [See *In re Patent No. 4,409,763*, 7 USPQ2d 1798 (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 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.

In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. *Ray v. Lehman*, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See *California Medical Prods. v. Tecno Medical Prods.*, 921 F. Supp. 1219 (D. Del. 1995). In this instance, petitioner was the patent owner at the time of the expiration of the patent, and therefore, petitioner alone had an obligation to ensure the timely payment of the maintenance fee

As previously stated, 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. However,

petitioner did not submit any statements supported by documentary evidence showing that he had any system in place to ensure the timely payment of the maintenance fees for this patent or that such a system, if employed, was reasonably reliable to notify petitioner of the due dates for payment of the maintenance fees. That is, there is no adequate showing that any steps had been taken with respect to scheduling and paying the maintenance fee by any person.

In the absence of a showing that petitioner was (1) aware of need to pay the second and third maintenance fees and (2) he took steps to ensure timely payment, 37 CFR 1.378(b) precludes acceptance of the payment. In other words, if petitioner was unaware of the need to pay the maintenance fees and no steps were taken by petitioner to track the maintenance fee due dates, then any concurrent and subsequent health problems of petitioner would be immaterial to the delay. The showing must be that when the petitioner's system indicated the maintenance fees fell due, his health problems "unavoidably" prevented him from taking any earlier action with respect to this patent. While the USPTO is aware of the difficulties and hardships involved in this instance, petitioner should include a showing (and copies of documents) that this patent had in fact been entered in a maintenance fee tracking system, and be accompanied by a statement as to how that system operated.

Furthermore, petitioner asserts that his "ability to work was severely limited and resulted in the unavoidable delay in paying in timely paying [his] maintenance fees". The Office reminds petitioner to meet the showing of unavoidable delay, petitioner must demonstrate that his medical incapacitation was of such a nature and degree as to render the patentee unable to conduct business (e.g., correspond with the Office) during the entire period from the maintenance fee was due on July 14, 2006, to the present. For example, how was petitioner able to travel to and from medical appointments, pay his bills, and maintain his affairs during this period of time, but was unable to make timely payment of his maintenance fees. Furthermore, petitioner failed to explain why he did not enlist the aid of others to assist him in managing his patent affairs to ensure the timely payment of the maintenance fee, as a reasonable and prudent person would have done with respect to his most important business.

The Office strongly advises petitioner to redact any personal information in documents submitted to the USPTO that may contribute to identity theft 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) as such information is never required by the USPTO to support a petition.

The Office notes that the address listed on the petition differs from the correspondence address of record. As a one-time courtesy, the Office is mailing petitioner a copy of this communication at the address on the petition. If petitioner would like future correspondence directed to him, petitioner must submit a change of correspondence address. The appropriate form (PTO/SB/123) is attached.

Petitioner is given **TWO (2) MONTHS** from the mail date of this communication to respond to this request for information and submit the necessary documentation. To avoid any confusion, petitioner should consider using Form PTO/SB/65 provided by the USPTO when responding to this

Patent No. 5,779,392
Application No. 08/719,520

Page 5

communication. No further fees are required when filing the enclosed Form PTO/SB/65 in response to this communication.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Forms PTO/SB/65 and Form PTO/SB/123

Cc: KENWOOD ROSS AND OR CHESTER E FLAVIN
 120 MAPLE STREET
 SPRINGFIELD MA 01103

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110824

DATE : August 24, 2011

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction on Patent No.: 6537764

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:

Proposed change to SEQ ID NO:2 would require re-examination and would materially affect the scope of the issued patent.

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

August 30, 2011

Kristin A. Connarn
McDermott, Will & Emery LLP
28 State Street
Boston, MA 02109-1775

Patent No: 6,537,764 B2
Application No: 08/720,565
Applicant: Craig J. Gerard, et al.
Issued: March 25, 2003
Title: **METHOD OF IDENTIFYING INHIBITORS OF C—C CHEMOKINE RECEPTOR 3**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322 or 1.323.

The alleged error in the sequence listing per the examiner "proposed change to SEQ ID NO:2 would require re-examination and would materially affect the scope of the issued patent".

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & certificated of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

copy



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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

MAILED
OCT 06 2011

OFFICE OF PETITIONS

In re Patent No. 5,722,302 :
Issue Date: March 3, 1998 :
Application No. 08/720,682 : DECISION ON PETITION
Filed: October 2, 1996 :
Title: Adjustable Pedal Assembly :

This is a decision on the petition under 37 CFR 1.378(c), filed September 22, 2011, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **granted**.

The patent issued March 3, 1998. The grace period for paying the maintenance fee expired on March 4, 2010.

This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

It is not apparent whether the patent practitioner, signing the statement of unintentional delay, was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Furthermore, there is no indication that the petitioners granted a power of attorney to the patent practitioner. Moreover, the file does not indicate a change of correspondence address has been submitted in this case, although the address given on the petition differs from the address of record. If the practitioner desires to receive future correspondence regarding this patent, the

appropriate power of attorney documentation and a change of correspondence address must be submitted. As a one-time courtesy, the Office is mailing a copy of this decision to the address listed on the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

C. F. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: HAROLD W. MILTON, JR.
HOWARD & HOWARD ATTORNEYS, P.C.
1400 NORTH WOODWARD AVENUE, SUITE 101
BLOOMFIELD HILLS MI 48304



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

MAY 05 2011

OFFICE OF PETITIONS

**IVAR M KAARDAL
KAARDAL & ASSOICATES, P.C.
622 SOUTH MINNESOTA AVENUE, SUITE 1
SIOUX FALLS SD 57104**

In re Patent No. 5,839,528 :
Issue Date November 24, 1998 : ON PETITION
Application No. 08/723,342 :
Filed: September 30, 1996 :
Attorney Docket No.: 96-0536 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2011, which is being treated as a petition under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within TWO (2) MONTHS from the mail date of this decision. The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.378(c) to Revive Patent".

This patent expired on November 25, 2010 for failure to pay the 11 ½ 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).

A grantable petition under 37 CFR 1.378(c) requires: (1) payment of the maintenance fee; (2) payment of the surcharge for unintentional delay; and (3) statement of unintentional delay for payment of the maintenance fee. The instant petition lacks items (1), (2), and (3).

Regarding item (1), the instant petition includes a maintenance fee payment of \$1310.00. However, the 11 ½ year maintenance fee payment is \$2055 (small entity). As Petitioner has not provided a deposit account number., the Office is unable to charge the balance due of \$745.00.

Regarding item (2), the instant petition includes a payment of \$810, however the surcharge for unintentional delayed payment of a maintenance fee is \$1640. As

Petitioner has not provided a deposit account number, the Office is also unable to charge the balance due of \$830. The total amount due for items (1) and (2) is \$1575.

Regarding item (3), whereas the instant petition includes the 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.”

this statement is improper. As the instant petition is submitted for unintentional delayed payment of a maintenance fee, the instant petition is required to include the statement that

“... the delay in payment of the maintenance fee to this patent was unintentional.”

A form for filing a petition under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent, that contains the proper statement, is attached herewith for petitioner's convenience.

Petitioner may wish to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

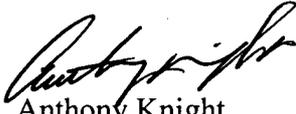
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, Virginia 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).



Anthony Knight
Director
Office of Petitions

Encl. Form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of a Maintenance Fee in an Expired Patent

cc: John E. Lee
3103 Lindenlea Drive
Mississauga, Ontario CANANDA L5C2C3

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

| Patent Number | Issue Date (YYYY-MM-DD) | Application Number | Filing Date (YYYY-MM-DD) | Docket Number (if applicable) |
|---------------|-------------------------|--------------------|--------------------------|-------------------------------|
| 5,892,228 | 1999-04-06 | 08/724,726 | 1996-09-30 | A-15085 |

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | | |
|----------------------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input checked="" type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | | |
|-----------------------|-----------|--------|
| | Fee | Code |
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- An attorney or agent registered to practice before the Patent and Trademark Office
- A sole patentee
- A joint patentee; I certify that I am authorized to sign this submission on behalf 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 | /James F. Porcello/ | Date (YYYY-MM-DD) | 2012-03-22 |
| Name | James F. Porcello | Registration Number | 29425 |

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 5892228 :
Issue Date: April 6, 1999 :
Application No. 08724726 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: September 30, 1996 :
Attorney Docket No. 6518AUS :

This is a decision on the electronic petition, filed March 22, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 22, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and 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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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. 5705575 :
Issue Date: January 6, 1998 :
Application No. 08725270 :DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
Filed: October 2, 1996 :
Attorney Docket No. T-2630-N :

This is a decision on the electronic petition, filed September 13, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 13, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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GEORGE A. HERBSTER
100 CUMMINGS CENTER
SUITE 213-C
BEVERLY MA 01915

MAILED
JAN 11 2011
OFFICE OF PETITIONS

In re Patent No. 5,835,680 :
Issue Date: 11/10/1998 : DECISION ON PETITION
Application No. 08/726,636 :
Filed: 10/07/1996 :
Attorney Docket No. A85-057 :

This is a decision in response to the petition under 37 CFR 1.378(b), filed August 6, 2010, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) is **dismissed**.

If reconsideration of this decision is desired, a "Petition for Reconsideration under 37 CFR 1.378(e)" must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below because the Director will not undertake any further reconsideration or review of the matter after a decision on the petition for reconsideration.

The patent issued on November 10, 1998. The second maintenance fee could have been paid during the period from November 10, 2005 through May 10, 2006, or with a surcharge during the period from May 11, 2006 through Monday, November 13, 2006. Accordingly, this patent expired on November 11, 2006, for failure to timely remit the maintenance fee.

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in § 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

This petition lacks requirement (3).

As 35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987). Moreover, patentee's lack of knowledge of the need to pay the

maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. See Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988).

In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See California Medical Prods. v. Tecnol Medical Prods., 921 F. Supp. 1219 (D. Del. 1995). Moreover, the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant, and an 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). Specifically, delay caused by the actions or inactions of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987).

Petitioner asserts that he retained the services of the Sofer Firm to docket and track the maintenance fee due dates for this patent as evidenced by the firm's payment of the first maintenance fee. Petitioner contends that the delay in paying the second maintenance was unavoidable because the Sofer Firm failed to inform petitioner of the need to pay the maintenance fee. Further, petitioner asserts that many of petitioner's records that may have contained information to support petitioner's assertion were destroyed in a fire on July 4, 2006.

While petitioner allegedly chose to rely upon the Sofer Firm, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 37 CFR 1.378(b) and 35 USC 41(c). See California Medical Products v. Technol Med. Prod., 921 F.Supp. 1219, 1259 (D.Del. 1995). Rather, such reliance merely shifts the focus of the inquiry from petitioner to whether counsel at the Sofer Firm acted reasonably and prudently. Id. Nevertheless, petitioner is bound by any errors that may have been committed by his legal representative. California, supra. As such, assuming that the Sofer Firm had been so engaged, then it is incumbent upon petitioner to demonstrate, via a documented showing, that counsel at the Sofer Firm had docketed this patent for the second maintenance fee payment in a reliable tracking system. Id. If petitioner cannot establish that the Sofer Firm was contracted to pay the maintenance fee and docketed the maintenance fee, then petitioner will have to demonstrate what steps were established by petitioner to monitor and pay the maintenance fee. Id.

The Office notes that petitioner did not submit any statements or docketing records from the Sofer Firm showing that the second maintenance fee was docketed and explaining the cause of the delay in timely payment of such maintenance fee. Petitioner did not show that he provided any money to his attorney to cover the amount due for the maintenance fee, any surcharges, and the attorney's services. Moreover, the record does not show that petitioner monitored the performance of Sofer firm pursuant to petitioner's belief that the firm would pay the maintenance fee. Petitioner failed to demonstrate it

diligently inquired with the law firm or the USPTO into the status of the patent and maintenance fee payment. Additionally, petitioner did not explain what steps petitioner took to restore any lost information regarding this patent after his records and files were destroyed on July 4, 2006. Petitioner's inaction does not reflect the due care and diligence exercised by a prudent and careful person with respect to his or her most important business, and as such, does not demonstrate unavoidable delay. Rather, a prudent person would have taken actions to ensure that the services of Sofer Firm were timely performed as specified.

The Office reminds petitioner that he is bound by the consequences of the actions or inactions of his duly authorized and voluntarily chosen representative. Therefore, any delay caused by the negligence or mistakes of petitioner's voluntarily chosen legal representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. at 317; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981). Furthermore, merely engaging another to pay the maintenance fees does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. That is, the burden remains on the patent owner to track the due dates and make certain that the maintenance fees are paid in a timely manner.

As to petitioner's argument that he did not receive any notices from the USPTO, the Office reminds petitioner that under the statutes and regulations, the USPTO has no duty to notify a patent owner of the requirement to pay maintenance fees or to notify the patentee when the maintenance fee is due. Although the Office may mail maintenance fee reminders strictly as a courtesy, it is solely the responsibility of the patent owner to ensure that the maintenance fee is paid timely to prevent expiration of the patent.

In summary, the record fails to disclose that petitioner took reasonable steps to ensure timely payment of the maintenance fee. Furthermore, petitioner did not provide sufficient documentary evidence in support of his assertion of unavoidable delay. Accordingly, the petition under 37 CFR 1.378(b) is **dismissed**.

Petitioner should note that if this petition under 37 CFR 1.378(b)/(e) is not renewed, or if renewed and not granted, petitioner may obtain a refund of the maintenance fee and post-expiration surcharge. The \$400.00 petition fee for seeking further reconsideration is not refundable

Any request for refund should be in writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

Patent No. 5,835,680
Application No. 08/726,636

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Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Services Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Correspondence may also be submitted electronically via EFS-Web.

Telephone inquiries regarding this decision 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
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www.uspto.gov

**GEORGE A. HERBSTER
100 CUMMINGS CENTER
SUITE 213-C
BEVERLY MA 01915**

MAILED

SEP 23 2011

OFFICE OF PETITIONS

In re Application of :
Dov Glucksman et al :
Application No. 08/726,636 : **DECISION ON REQUEST FOR REFUND**
Filed: October 7, 1996 :
Attorney Docket No. A85-057 :

This is a decision on the Request For Refund filed September 6, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "Applicant hereby requests the United States Patent and Trademark Office to issue a credit to my American Express card in the amount of \$3,180.00 in connection with the above-identified U.S. Patent. This requested refund constitutes the maintenance fee and post-expiration surcharge paid with my credit card in August of 2010 in connection with the petition under 37 CFR 1.378(b) filed on August 6, 2010, to accept the unavoidably delayed payment of the maintenance fee for the above identified patent. That petition under 37 CFR 1.378(b) was dismissed on January 11, 2011. ..."

In view of the above, a total of \$3,720.00 paid on August 6, 2010, is being credited to applicant's credit card account as it is the method in which the fee was paid.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions